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AGRICULTURAL TILLAGE TOOLS FROM BRAZIL

Determination of the Commission in Investigation No. 701-TA-223 (Final) Under Section 705 (b) Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 701-TA-223 (Final)

AGRICULTURAL TILLAGE TOOLS FROM BRAZIL

Determination

On the basis of the record 1/ developed in investigation No. 701-TA-223 (Final), the Commission determines, 2/ 3/ pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is materially injured by reason of imports from Brazil of discs (round shaped agricultural tillage tools with plain or notched edge), provided for in item 666.00 of the Tariff Schedules of the United States, which are subsidized by the Government of Brazil. The Commission also finds that "critical circumstances" do not exist with respect to such imports.

On the basis of the record 1/ developed in investigation No. 701-TA-223 (Final), the Commission further determines, 4/ pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is not materially injured or threatened with material injury by reason of imports from Brazil of non round-shaped agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States, which are subsidized by the Government of Brazil.

Background

On September 28, 1984, a petition was filed with the Commission and the Department of Commerce by Ingersoll Products Corp. of Chicago, IL, Empire Plow Co. of Cleveland, OH, and Nichols Tillage Tools of Sterling, CO, alleging that an industry in the United States is materially injured or threatened with

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1/ The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).
2/ Chairwoman Stern finds threat of material injury.
3/ Vice Chairman Liebeler dissenting.
4/ Commissioner Eckes finds threat of material injury.

material injury by reason of subsidized imports of agricultural tillage tools from Brazil. On June 10, 1985, Commerce made a preliminary determination that imports of agricultural tillage tools from Brazil were being subsidized within the meaning of the Act (19 U.S.C. § 1671). Accordingly, effective June 10, 1985, the Commission instituted final countervailing duty investigation No. 701-TA-223 (Final).

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 11, 1985 (50 F.R. 28282). The hearing was held in Washington, DC, on September 10, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

We determine that an industry in the United States is materially injured by reason of imports of discs from Brazil which have been found by the Department of Commerce (Commerce) to be subsidized. 1/ We further determine that "critical circumstances" do not exist with respect to such imports.

We also determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of "other tillage tools" from Brazil found by Commerce to be subsidized. 2/

Like products and domestic industries 3/

The imported products in this investigation are agricultural tillage tools, consisting of discs and "other tillage tools." Discs are round, concave or flat pieces that are mounted in rows on a plowframe where they revolve in use. The "other tillage tools" category includes sweeps, chisels, knives, drills, plowshares, plowshins, and moldboards. 4/

In its preliminary determination, the Commission determined that there was sufficient overlap in the uses of discs and "other tillage tools" to

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1/ Chairwoman Stern determines that an industry in the United States is threatened with material injury by reason of imports of discs from Brazil. See her Additional Views, infra. Vice Chairman Liebeler determines that there is no material injury or threat of material injury by reason of imports of discs from Brazil. See her Additional and Dissenting Views, infra.

2/ Commissioner Eckes determines that an industry in the United States is threatened with material injury by reason of imports of "other tillage tools" from Brazil. See his Dissenting Views, infra.

3/ The domestic industry in a countervailing duty investigation is defined in section 771(4)(A) of the Tariff Act of 1930 as the domestic producers of the product which is like that being imported: "[T]he term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 19 U.S.C. § 1677(4)(A). The term "like product" is defined in section 771(10) as: "[A] product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation . . . ." 19 U.S.C. § 1677(10).

4/ Report of the Commission (Report) at A-2.

justify a finding of one like product. 5/ However, the Commission noted that it might find more than one like product in any final investigation.

The domestic industry is largely bifurcated between disc and "other tillage tools" producers. 6/ Those distributing and those selling the products distinguish between discs and "other tillage tools." It has become clear in the course of the final investigation that the end uses are also sufficiently distinct to warrant a finding of two like products. Discs are used for primary tillage, i.e., to break the ground before planting. "Other tillage tools" are used for soil preparation prior to planting, for cultivation during the crop's growing cycle, and for post-harvest soil conditioning. There is some interchangeability or overlap in uses, depending on soil conditions and other factors; however, most users distinguish between the two categories and would not or could not substitute one for another. 7/

Further, there are significant distinctions between the manufacturing processes. 8/ 9/ Discs require more expensive machinery requiring substantially higher capital investments. The steel for domestically produced discs undergoes a cross-rolling process to add strength which is not undergone by the steel for "other tillage tools." We therefore determine that there are two like products, discs and "other tillage tools," and two corresponding domestic industries.

5/ Chairwoman Stern found two like products, discs and "other tillage tools," in the preliminary investigation.

6/ Report at A-5-A-8.

7/ We note also that during the final investigation the parties are largely in agreement that there are two like products.

8/ Report at A-4-A-5.

9/ Commissioner Eckes does not join in this discussion of manufacturing processes. He defines like product on the statutory bases of characteristics and uses.

Condition of the domestic disc industry

We have determined that the domestic industry producing discs is materially injured. 10/ We reach this determination on the basis of declines in production, capacity utilization, shipments, market share, employment, and profitability. At the time of the Commission's preliminary determination one year ago, it appeared that the condition of the industry was improving. However, since that time most of these indicators have turned sharply downward.

The U.S. disc industry consists of two companies, Ingersoll and Osmundson. 11/ Ingersoll is the dominant company. 12/

During the period of investigation, production, both in units and value, decreased slightly from 1982 to 1983. It then increased in 1984, primarily due to a strong increase in the first half of 1984, and then fell sharply through the first half of 1985. 13/ Capacity utilization followed the same pattern and is currently at a very low rate. 14/ Shipments also followed the same pattern showing the same precipitous drop in the first half of 1985. 15/

With the exception of an increase in the first half of 1984, numbers employed and hours worked in the disc industry have fallen since 1982. 16/ These indicators fell significantly during the first half of 1985.

10/ Chairwoman Stern determines that an industry in the United States is threatened with material injury by reason of imports of discs from Brazil. Vice Chairman Liebeler determines that there is no material injury or threat of material injury by reason of imports of discs from Brazil.

11/ One U.S. producer, Crucible, ceased production of discs in 1982.

12/ Much of the information available on the condition of the domestic industry is business confidential. Thus, we limit our discussion to general trends and public information.

13/ Report at A-14-A-17.

14/ Id.

15/ Id.

16/ Id. at A-18-A-19.

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Productivity increased significantly from 1982 to 1983, declined in 1984, and then fell sharply in the first half of 1985. 17/

The industry sustained losses in 1982 and 1983, but was profitable in 1984. However, its financial condition deteriorated sharply in the first half of 1985. 18/ Capital expenditures also fell significantly in the first half of 1985. 19/

Material injury by reason of imports of subsidized discs from Brazil 20/

Under section 705(b) of the Tariff Act of 1930, as amended, the Commission is required to determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of merchandise with respect to which Commerce has determined are subsidized. In reaching its determination that the U.S. industry producing discs is materially injured by subsidized imports from Brazil, the Commission has considered, among other factors, the increases in absolute and relative volumes of imports, the effects on prices in the United States for the like product, and how these imports have affected the U.S. industry.

There have been sharply rising levels of imports of discs from Brazil. The first imports occurred in 1982 and were at a very low level. The imports increased rapidly thereafter and reached a market penetration of 17.2 percent in 1984. 21/ The value of imports did drop in the first half of 1985 as

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17/ Id.
18/ Id.
19/ Id. at A-24.
20/ Chairwoman Stern determines that an industry in the United States is threatened with material injury by reason of imports of discs from Brazil. Vice Chairman Liebeler determines that there is no material injury or threat of material injury by reason of imports of discs from Brazil. Accordingly, she does not join this section of the opinion.
21/ Report at A-13.

domestic demand dropped. However, the market penetration rate remained 17.2 percent, 2.1 percentage points higher than in the comparable 1984 period. Imports in the first quarter of 1985 were significantly higher than in the first quarter of 1984. Most of the drop in imports from Brazil occurred in the period April-June 1985.

During all of this period of rapidly increasing imports from Brazil, the imports undersold the domestic product by significant margins. 22/ Furthermore, these high margins of underselling took place in a market that was particularly price sensitive due to the continued weakness and uncertainty in the agricultural economy. 23/

Respondents argued that any injury to the domestic industry was not caused by imports from Brazil. The dominant U.S. company, Ingersoll, does not sell to the wholesalers and retail chains dealing exclusively in the replacement market. Rather, Ingersoll sells only to original equipment manufacturers (OEMs) for use in new whole equipment and to the OEMs' dealers as replacement parts. Therefore, respondents argued, Ingersoll injured itself by not selling to the direct replacement market, which in a weak farm economy is the more flourishing segment of the market.

However, almost 20 percent of imports from Brazil are sold to OEMs. 24/ The Commission confirmed that Ingersoll has experienced significant lost sales to the imports from Brazil. 25/ Also, the other U.S. producer, Osmundson,

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22/ Id. at A-47.

23/ Id. at A-39.

24/ Respondents' post-hearing brief at 6. One of the Brazilian manufacturers, Marchesan, imports its discs through Farmo, a company largely made up of the former marketing personnel of Crucible, the U.S. producer that went out of business. Id. at A-8-A-9. Crucible sold largely to OEMs and, as could be expected, Farmo now also sells to this market.

25/ Id. at A-53-A-54.

sells primarily into the replacement market. 26/ Osmundson has also lost sales to imports from Brazil. 27/ Furthermore, the end users, farmers, are not grouped into distinct categories, some of which will purchase only from OEM dealers and others only from non-dealers. Price pressure exerted in one segment of the market will necessarily be felt in the other. Lastly, Brazilian prices were the same for similar quantities of discs to purchasers in the OEM or replacement part markets. 28/ Thus, margins of underselling between the Brazilian and domestic discs did not differ significantly in the replacement and OEM markets. 29/

Respondents argued that imports from Brazil were not the price leaders in the marketplace and therefore could not be held responsible for any price suppression or depression. There is evidence that discs imported from certain other countries sold for less than the discs from Brazil. 30/ However, the imports from Brazil undersold the domestic discs by significant margins. Furthermore, there was evidence of quality and supply reliability problems with certain of these other imports which reduced their competitiveness in the marketplace. 31/ Since the discs from Brazil accounted for a substantial share of U.S. consumption, 17.2 percent, and the trend was sharply upward during the period of investigation, they had a significant impact on the domestic prices. In the weakened state of the domestic industry during this period of decline and instability in the agricultural economy, this price suppression along with lost sales contributed to the industry's deteriorated performance.

26/ Id. at A-10-A-11.
27/ Id. at A-53-A-54.
28/ Id. at A-39-A-40.
29/ Office of Investigations memorandum to the Commission (Sept. 27, 1985).
30/ Report at A-48.
31/ Id. at A-50-A-51. Transcript of the hearing at 103, 128.

Critical circumstances

Petitioners alleged the existence of critical circumstances requiring retroactive application of countervailing duties. Commerce made an affirmative preliminary critical circumstances determination on June 4, 1985. 32/ On August 19, 1985, Commerce made its final affirmative determination of subsidization and included a critical circumstances determination. 33/ According to that determination, if the Commission determined that there was material injury, as opposed to a negative finding or a threat of material injury determination, then the Commerce critical circumstances determination was affirmative. 34/

Thus, with respect to imports of Brazilian discs, the Commission must make an additional finding as to whether:

> (i) There is material injury which will be difficult to repair, and
>
> (ii) The material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period. 35/

With respect to discs, the information obtained by the Commission pursuant to its final investigation shows that the level of imports of discs from Brazil increased only slightly in the period from the filing of the petition to the

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32/ 50 Fed. Reg. 24270 (June 10, 1985).

33/ 50 Fed. Reg. 34525, 34536 (Aug. 26, 1985).

34/ As part of its critical circumstances determination in countervailing duty investigations, Commerce must find that "the subsidy is inconsistent with the Agreement." 19 U.S.C. § 1671d(a)(2)(A). Generally this refers to export subsidies. However, Brazil is considered a "developing country," so Article 14 of the Subsidies Code exempts it from the Article 9 prohibition on export subsidies unless the subsidies cause "serious prejudice" to the domestic industry of another country. Commerce determined "as a matter of principle" that there can be serious prejudice where there is material injury.

35/ 19 U.S.C. § 1671d(b)(4)(A).

suspension of liquidation. 36/ 37/ Market penetration remained level during that period. 38/ There is no evidence that there has been material injury that will be difficult to repair that was caused by "massive" imports of discs from Brazil during the period in question.

Condition of the domestic "other tillage tools" industry 39/

We do not find that the domestic industry producing "other tillage tools" 40/ has suffered material injury during the period of investigation. 41/

Production of "other tillage tools" decreased between 1982 and 1983 from 49 million pounds to 43 million pounds, but increased sharply to 55 million pounds in 1984. Production declined by 12 percent during the first half of 1985 as compared to the first half of 1984, but still represented a significant increase over 1983 production levels. 42/ Capacity utilization and shipments followed the same pattern. Inventories of "other tillage tools" increased in 1984 and again in the first half of 1985, but are below the

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36/ Report at A-37.

37/ Commerce had access only to import data based on basket TSUS categories which did not distinguish tillage tools from other farm implements. The Commission also had questionnaire data from importers of record in this investigation. The latter data indicate that imports of discs from Brazil increased only slightly between the filing of the petition and suspension of liquidation, as compared to the same period one year earlier. The Commission relied upon these figures in determining the absence of a causal link between the "massive" imports and any material injury which would be difficult to repair.

38/ Report at A-13.

39/ Commissioner Eckes determines that the domestic industry producing "other tillage tools" is threatened with material injury by reason of subsidized imports from Brazil. See his Dissenting Views, infra.

40/ Unlike the disc industry, the "other tillage tools" industry consists of a number of companies, none of which is dominant. Thus, the aggregate figures are not confidential.

41/ The issue of critical circumstances is not reached in regard to the "other tillage tools" industry due to the Commission's determination that there was no material injury by reason of imports of "other tillage tools" from Brazil.

42/ Report at A-14-A-15.

levels of 1981 and 1982. 43/ Capital expenditures increased significantly from the interim period January-June 1984 to January-June 1985. 44/

Employment in the "other tillage tools" industry decreased from 1982 to 1983 but increased in 1984. It fell off slightly from 429 to 425 employees in the first half of 1985 as compared to the first half of 1984. 45/ Productivity has increased significantly from 1983 to June, 1985. 46/

Of the "other tillage tools" producers who provided financial data, they showed improving operating income from 1982 to 1984, rising from $3.0 million to $4.6 million. This also represented an increase in operating margins from 7.9 percent in 1982 to 9.1 percent in 1984. Gross profits increased in the first half of 1985, though operating income and margins decreased. Despite a declining agricultural economy, operating margins held at 7.8 percent. 47/

No material injury by reason of subsidized imports of "other tillage tools" from Brazil

It has already been determined that economic indicators for the "other tillage tools" industry fail to establish material injury. Furthermore, the Commission determines that any problems experienced by the domestic industry during the period of investigation are not by reason of subsidized imports of "other tillage tools" from Brazil.

Although imports of "other tillage tools" from Brazil increased during the period of investigation, they remained at low levels, reaching only 3.2 percent by value in the interim period January-June 1985. 48/ Imports

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43/ Id. at A-17.
44/ Id. at A-24.
45/ Id. at A-18-A-19.
46/ Id.
47/ Id. at A-21-A-22.
48/ Id. at A-13.

declined in absolute value in the first half of 1985. While there was some evidence of lost sales 49/ and underselling 50/ with respect to "other tillage tools" from Brazil, the low and relatively stable level of market share of such imports did not indicate that they were a cause of material injury. 51/ Furthermore, the producers' weighted average prices for most "other tillage tools" increased during the period of investigation. 52/ 53/

There is, therefore, no coincidence between the fluctuations in the industry's economic indicators and the level of imports. Thus, any impact of imports of "other tillage tools" on the domestic industry is *de minimus*.

49/ *Id*. at A-54-A-58.

50/ *Id*. at A-47-A-49.

51/ Vice Chairman Liebeler notes that although the statute requires the Commission to determine whether there is significant price undercutting, she does not find the particular data on underselling gathered by the Commission in this investigation useful in determining whether the material injury is by reason of allegedly less than fair value (LTFV) imports. Firms, whether foreign or domestic, generally charge the profit maximizing price for their product. As a result, price differentials are usually accounted for by differences in the product or associated services. Thus, "underselling" based on a comparison of transactions' prices has no relevant economic content. Price undercutting refers to predatory pricing behavior whereby a firm lowers its prices to drive out competitors in order to gain monopoly power. *See*, *e.g.*, Views of Vice Chairman Liebeler, Certain Welded Carbon Steel Pipes and Tubes from Thailand and Venezuela, Invs. Nos. 731-TA-252 and 253 (Preliminary), USITC Pub. 1680 (1985).

As for lost sales, there is no statutory requirement to consider lost sales. I do not find the presence or absence of confirmed lost sales determinative or persuasive on the question of a causal link between LTFV imports and material injury to the domestic industry. Typically, an import that is sold at LTFV affects the domestic industry the same way regardless of whether it is a confirmed lost sale. Although it might be appropriate to inquire whether a sale by a respondent has been in lieu of sales by the domestic industry or, alternatively, at the expense of imports from other countries, Commission information on lost sales is not capable of providing an answer to such a question because the data are based on a very small and biased sample. *See*, Gifford-Hill Cement Co. v. United States, 10 CIT ____, slip. op. 85-79 at 22 (July 31, 1985).

52/ Report at A-43.

53/ Chairwoman Stern notes that margins of underselling between the imported and domestic products exceeded the margin determined by the Department of Commerce.

No threat of material injury by reason of subsidized imports of "other tillage tools" from Brazil

In order to conclude that subsidized imports constitute a threat of material injury to the domestic industry, the Commission must find that the threat is real and imminent, and not based on a mere possibility that injury might occur at some remote future date. 54/ The volume of imports of other tillage tools from Brazil is low and has not increased significantly since the Brazilians entered the market in 1983. 55/ Importer inventories declined in 1985. 56/ There appears to have been a shift in export orientation of Brazilian producers towards North America. However, this trend appears to be completed with little further production available to be shifted to the United States. 57/ Furthermore, the Brazilian tillage tools industry is apparently producing at close to full capacity. 58/

There is no evidence suggesting that on the basis of the Commission's decision productive capacity would shift from discs to "other tillage tools." It is not necessarily true that the imposition of an 8.06 percent countervailing duty on discs will cause a decrease in disc production. Even assuming disc production were to fall, the machinery utilized to produce "other tillage tools" is distinct and it would require new capital expenditure to increase production of "other tillage tools." The manufacturing processes are not interchangeable. It would be wholly speculative to assume that the

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54/ S. Rep. No. 249, 96th Cong., 1st Sess. 89 (1979).

55/ Report at A-13, A-34. On a unit basis, imports of "other tillage tools" increased to 7.6 percent in the first half of 1985. However, value is a more meaningful reflection of import penetration than units when dealing with an industry producing many different products (300 to 400).

56/ *Id.* at A-26.

57/ *Id.* at A-29.

58/ *Id.* at A-30-A-31.

Brazilian industry would make this new investment necessary to increase production of "other tillage tools." An affirmative determination of threat of material injury cannot be made solely on the basis of an increased level of imports, and must be based on more than mere supposition and conjecture that injury might occur at some remote future time. 59/

59/ Alberta Gas Chemicals, Inc. v. U.S., 515 F. Supp. 780 (May 28, 1981).

ADDITIONAL VIEWS OF CHAIRWOMAN STERN REGARDING THREAT OF MATERIAL INJURY TO THE DOMESTIC DISC INDUSTRY

One year ago in my preliminary determination, I dissented from the finding of my colleagues that there was a reasonable indication that the domestic disc industry was threatened with material injury. While I found that the problems experienced by this industry did rise to the level of a "reasonable indication of material injury," I did not find that these difficulties were caused by imports of discs from Brazil.

In that investigation, the data available to the Commission (through the first half of 1984) did not demonstrate a relationship between the problems experienced by the domestic disc industry and the presence of Brazilian discs in the market. [1] Since the preliminary investigation, this pattern--reflecting a lack of coincidence between the level of imports and dramatic changes in the performance of the domestic industry--has continued. The U.S. market share garnered by Brazilian disc producers in 1984 has varied little in the first half of 1985.[2]

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[1] The precipitous drop in the industry's performance occurred between 1981 and 1982, when Brazilian disc products were virtually absent from the U.S. market and the American farm economy was mired in recession. When Brazilian imports made a measurable appearance in 1983, the industry's indicators remained stable. In 1984, imports of Brazilian disc products successfully captured almost one-fifth of the domestic market, but the industry's performance, particularly profitability, improved dramatically.

[2] Import penetration for the first half of 1985 on a value basis (17.2 percent) matches that for the entire year of 1984. On a quarterly basis, however, imports dropped between the first and second quarter of 1985. Imports also declined when the first half of 1985 is compared to the first half of 1984.

Yet the condition of the domestic industry has deteriorated abruptly.[3] Clearly there are factors affecting the industry's performance entirely independent of imports.[4] It is for this reason I have not joined in my colleagues determination that the domestic disc industry is materially injured by reason of imports in the final investigation.[5]

Nevertheless, a de novo analysis of the facts presented in the final investigation does substantiate a finding that imports of discs from Brazil threaten material injury to the domestic disc industry. Although the level of Brazilian imports is approximately the same as in the preliminary investigation, the industry is in a far weaker, and thus more vulnerable, state.[6] Other elements of this investigation substantiate a finding of threat. The market share held by the Brazilians is indeed considerable. When coupled

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3/ For a general discussion of the trends of each of the indicators of the industry's performance during the first half of 1985, see the section entitled "Condition of the domestic disc industry" in the majority opinion.

4/ Some of these factors are the PIK program (which removed several million acres from production during the period of investigation), the severe downturn in the agricultural economy, and the fact that purchasers of tillage tools tend to rely more on the aftermarket than on Original Equipment Manufacturers (to which the dominant domestic disc producer primarily sells) during periods of recession.

5/ It should also be noted that Brazilian disc producers were able to undersell domestic manufacturers by percentage margins far greater than the margin of subsidization determined by the Department of Commerce.

6/ See Rhone Poulenc v. United States (Slip Op. 84-87, decided July 19, 1984), where the Court of International Trade upheld a threat determination of the Commission, holding that the Commission must consider trends in the economic indicators of the industry specified in the present injury standard in order to determine threat of material injury.

with the extent of underselling on the part of the Brazilian products, regardless of whether these sales are in the aftermarket or to Original Equipment Manufacturers, [7] the fact that there have been sales lost in both markets and that one importer of Brazilian discs is positioned to increase its sales to Original Equipment manufacturers,[8] it is reasonable to assume that the domestic disc industry will be materially injured by reason of imports from Brazil in the future.[9]

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[7] See Memorandum to The Commission from International Economist regarding price data requested by Chairwoman Stern at the September 10, 1985 hearing on Inv. No. 701-TA-223, September 27, 1985.

[8] The sales staff of Crucible Steel Co. was successfully recruited by Farmo, which was formed in 1982 to import Brazilian tillage tools, including discs. Prior to 1982, Crucible was the second largest producer of disc blades and accounted for approximately 40 percent of the domestic disc market. See Report at A-7, A-9.

[9] Respondents argued that a finding of threat of material injury was unwarranted because the FINEX program of export financing has not been available to Brazilian tillage tool producers since August, 1984, and capacity utilization for tillage tool production in Brazil is high. [Respondents Post Hearing Brief at 8-9.] However FINEX export financing was only one of several components of the margin determined by the Department of Commerce. [Report at Appendix A.] Also, even if imports did not significantly increase, they would materially injure the domestic disc industry in the future if there were no improvement in the industry's current performance.

DISSENTING VIEWS OF COMMISSIONER ECKES

I do not agree with my colleagues' determination that the domestic industry producing "other tillage tools" is neither materially injured nor threatened with material injury from subsidized Brazilian imports. The investigation data may not support a material injury determination -- I concur in that judgment, although it is a close call in my opinion. However, I am puzzled that the majority did not find threat of material injury after following the procedures mandated by U.S. trade laws.

The Tariff and Trade Act of 1984 provides explicit guidance to the Commission in determining whether a domestic industry is threatened with material injury by subsidized imports. If the Commission does not find current material injury in a Title VII investigation, it must consider at a minimum certain factors specified in the Act and assess whether there is a real and imminent threat of material injury. In my view, careful consideration of those factors clearly points to a finding of threat to the domestic industry producing other tillage tools.

Condition of the domestic industry

One of the factors the Commission must consider under the 1984 Act is whether there are any "...demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury." One such "adverse trend" in this investigation is the increasing vulnerability of the domestic industry.

During the period covered by this investigation, the performance of the other tillage tools industry followed much the same pattern as that for the disc industry, although the 1985 decreases in production, capacity utilization, shipments, and employment were ostensibly less severe than those experienced by disc producers. However, midyear 1985 producer inventories of other tillage tools were 18 percent higher than midyear 1984 inventories, in contrast to sharply lower inventory levels for discs in 1985. Purchasers' inventories ballooned 72 percent over the midyear 1984 level. Thus, the less severe declines in production, utilization and shipments are misleading indicators of the performance of this industry.

Further, there was a decided downturn in the profitability of the other tillage tools industry in the first half of 1985, as operating profits fell to 7.8 percent compared to 9.3 percent for the same period in 1984 and 10.1 percent for full-year 1984. It is interesting to note there was a disparity in the profitability of those firms importing a portion of their tillage tools and that of nonimporters. The operating profit ratios for importing firms in 1984 and in the first half of 1985 were larger than the comparable ratios for nonimporters. It is not surprising that firms choose to import portions of their lines to increase their competitiveness.

The immediate prospects for the other tillage tools industry are not bright. This year has not been a good one for farmers, and the near future does not promise much relief.

Surpluses and low prices for key farm products in 1985 probably will bring production cutbacks and more farm foreclosures in 1986. This will reduce the market for tillage tools still further and increase the competition for shares of that shrinking market. Under such conditions, an industry with already diminishing profits and rising inventories will be vulnerable to injury from increasing, low-priced, subsidized imports.

Threat of material injury by reason of subsidized imports

The other factors that must be examined under the 1984 Act address causation considerations -- prospective volume of imports, market penetration and price effects, as well as existing import inventory levels. As part of assessing prospective import volume, the Commission is to evaluate the possibility of increased foreign production of the merchandise under investigation.

Unlike most of the domestic producers, the Brazilian exporting producers manufacture both discs and other tillage tools in the same facilities, "employing the same technology, marketing, and sales organizations," as the Commission report points out. The interrelationship between the Brazilian production of discs and other tillage tools is underscored by the report's statement that "Scrap metal left over from disc production typically is used to make other tillage tools."

The trend for Brazilian production of other tillage tools is unmistakably up. Producers' data show a sharp increase in production between 1982 and 1984. Combined capacity to produce discs and other tillage tools increased 32 percent from 1982 to 1983 and an additional 24 percent in 1984.

The exporting producers have stated that they were manufacturing at 84 percent of capacity in the first half of 1985 (for both discs and other tillage tools -- the data supplied do not indicate capacity or utilization for each product). However, it should be noted that one producer reduced its 1985 capacity figure because of a strike, thus making the reported total capacity lower and the utilization percentage higher than actually was the case.

Clearly there is some unused capacity for other tillage tools production. Also, in view of the rapid expansion of the Brazilian tillage tool industry since 1982, there is little doubt that expansion will continue if economically justified. Furthermore, although discs are made using machinery that differs from that used to make other tillage tools, they are made in the same facilities using the same technology. Producers can easily shift resources such as workers and raw materials from disc production to producing the other tools. Countervailing duties on disc exports may well spur such a shift of resources.

Our investigation shows that the United States is the principal market for Brazilian tillage tools. Exports of other tillage tools to this country did not begin until 1983. The unit import level for 1984 was significantly higher than in 1983; and the first half of 1985 brought a further substantial increase over the comparable period in 1984. The import volume was particularly high in the first quarter of 1985 before retroactive duties might be a consideration for importers.

Although there was a drop in the import level of other tillage tools as well as discs in the second quarter of 1985 as compared to the first quarter, the import level of other tillage tools (in terms of units) remained about the same as in the comparable 1984 period. The Commission report quotes Brazilian sources as saying that the statistics in this period reflect a short-term situation resulting, in part, from the reluctance of purchasers to make commitments during the investigation. The report states "Brazilian observers expect the industry" (that is, the industry producing both discs and other tillage tools) "to resume its overseas sales expansion in 1986."

Inventory levels also had a dampening effect on second-quarter 1985 imports. Importers' inventories of other tillage tools from Brazil were slightly lower in the first half of 1985 than in the comparable 1984 period; however, the end-of-period level reflected a substantial proportion of the quantity imported in the period. Purchasers' inventories of Brazilian imports were over 22 percent higher in 1985 than in the comparable 1984 period.

Penetration figures indicate that the imports of other tillage tools were successful in capturing an increasing U.S. market share. On a quantity basis, penetration rose from 5.8 percent of apparent U.S. consumption in the first half of 1984 to 7.6 percent in the comparable 1985 period. This compares to only 4.3 percent in 1983.

Investigation data show substantial underselling of the domestic product by Brazilian imports of other tillage tools, ranging up to 30 percent. The Commission confirmed a number of sales lost to imports on the basis of price. It is not surprising, then, that the data on U.S. prices show evidence of price suppression after the Brazilians entered the market in 1983.

There is no information on the record that the Brazilians will alter their pricing policies in the future. In fact the data on the value of other tillage tools imports in the first half of 1985 show a substantial drop in unit value from the comparable period in 1984. This indicates increasingly aggressive pricing in the face of poor market conditions.

After considering the trends in import volume and penetration and the facts pointing to the probability that Brazilian exports to the United States will increase in the near future, I must conclude that the domestic industry producing other tillage tools will face increasing competition from subsidized Brazilian imports. In view of the pervasive underselling by the imports, resulting U.S. price suppression, and the decreasing unit values of imports, I believe that the domestic industry, already showing signs of deteriorating performance in a weak agricultural economy, is threatened with material injury by reason of those imports.

ADDITIONAL AND DISSENTING VIEWS
OF VICE CHAIRMAN LIEBELER

I join with the Commission majority in their discussion of the like products and domestic industries. I also join with the Commission majority in their discussion of other tillage tools and the condition of the industry producing discs. Because I have found that there is no causal connection between the condition of the disc industry and the subsidized imports from Brazil, I offer these additional and dissenting views in Inv. No. 701-TA-223 (Final).

In Certain Red Raspberries from Canada, I developed a five factor approach to analyze causation in Title VII final investigations.[1] In that opinion I stated my five factor approach as follows:

> The stronger the evidence of the following, however, the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogeneous products, (4) declining prices, and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports).[2]

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[1] See also Iron Construction Castings from Brazil, Canada, India, and the People's Republic of China, Inv. Nos. 701-TA-249 and 731-TA-262-65 (Preliminary), USITC Pub. 1720 (1985) at 11, note 34.

[2] Certain Red Raspberries from Canada Inv. No. 731-TA-196, USITC Pub. 1707 (1985), at 16 (Additional Views of Vice Chairman Liebeler).

My negative determination on discs is based on this approach. With respect to the first factor, large and increasing market share, discs from Brazil held a 17.2 percent market share in 1984, up from 1.3 percent in 1982.[3]

The second factor is a high dumping margin. The Red Raspberries investigation was an antidumping duty investigation brought under section 731 of the Tariff Act of 1930. This investigation is not an antidumping duty investigation, but a countervailing duty investigation. Thus, the behavior alleged was not dumping by the foreign firms, but subsidization by a foreign government. Accordingly, in a subsidy case the margin of subsidization replaces the dumping margin. In this investigation, Commerce has determined the net subsidy to be 8.06 percent *ad valorem*.[4]

The third factor is the homogeneity of the products. There are a number of possible ways to decide how closely substitutable two goods are. Price is one such indicator. In commodity markets at any point in time, all goods sell for the same price. This is because all goods are perfect substitutes for one another. When goods are not perfect substitutes, price can provide a lower bound for the substitutability. The greater the difference in the price of competing the goods, the more they differ.[5] The prices of 16-inch diameter discs have differed by as much as 37 percent.[6] For 22-inch diameter discs, there have also been significant price differences.[7] These price differences imply that there are substantial differences among discs of the same diameter. Thus, they are not very homogeneous.

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[3] Report at Table 2.

[4] *Id*. at A-2.

The fourth factor is declining prices. Since the first quarter of 1983, the United States producer average price for 16-inch diameter discs has declined,[8] and the United States average producer price for 22-inch diameter discs has risen.[9] Thus, there has been no significant decline in prices.

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[5] The converse does not hold because two goods with very different characteristics can have the same price.

[6] Report at Table 18.

[7] Id. at Table 19.

[8] Id. at Table 18.

[9] Id. at Table 19.

The fifth factor is the presence of barriers to entry. Imports of discs from sources other than Brazil have been present to such an extent as to indicate that there are no substantial barriers to entry.[10]

The record in this investigation leads me to the following conclusions: There is substantial variation among discs of the same diameter, there has been no significant decline in disc prices, and discs from Brazil account only for a portion of imports of discs. In light of the nonfungible nature of discs, a subsidy of 8.06 percent _ad valorem_ is not very large. Thus, although there has been substantial growth in imports of discs from Brazil, and Brazil now has a moderate share of the United States market, the second through fifth factors compel me to conclude that imports of discs subsidized by the government of Brazil do not materially injure or threaten to materially injure the domestic industry producing discs.

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[10] _Id_. at Table 2.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On September 28, 1984, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Ingersoll Products Corp. (Ingersoll), Empire Plow Co., Inc. (Empire), and Nichols Tillage Tools, Inc. (Nichols). The petition alleged that the production and/or exportation to the United States of agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS), are being subsidized by the Government of Brazil, and that by reason of sales in the United States of such subsidized products an industry in the United States producing and selling the like product is materially injured, or is threatened with material injury. Accordingly, effective September 28, 1984, the Commission instituted investigation No. 701-TA-223 (Preliminary) under section 703(a) of the Tariff Act of 1930 (the act) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the allegedly subsidized merchandise. On November 13, 1984, the Commission determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of the subject imports.

On June 10, 1985, Commerce made a preliminary determination that there is reason to believe or suspect that certain benefits that constitute subsidies within the meaning of section 701 of the act are being provided to manufacturers, producers, or exporters in Brazil of the subject products (50 F.R. 24270, June 10, 1985). Effective that date, the Commission instituted investigation No. 701-TA-223 (Final), to determine whether an industry in the United States is materially injured or is threatened with material injury, by reason of imports of such merchandise into the United States (50 F.R. 28292, July 11, 1985).

Commerce made its final subsidy determination on August 19, 1985 (50 F.R. 34525, Aug. 26, 1985). The Commission is scheduled to vote on this case on October 1, 1985, and transmit its final injury determination to Commerce on October 7, 1985. A public hearing in connection with the Commission's investigation was held in Washington, DC, on September 10, 1985. Notice of the public hearing was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 11, 1985. 1/

Nature and Extent of Subsidies

On August 19, 1985, Commerce determined that the following benefits, which constitute subsidies within the meaning of section 701 of the act, are being provided to manufacturers of tillage tools in Brazil: Preferential working-capital financing for exports, export financing under the CIC-CREIGE 14-11 Circular, FINEX export financing, income tax exemption for export

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1/ Copies of the Commission's and Commerce's notices are presented in app. A. A list of witnesses that appeared at the hearing is presented in app. B.

earnings, and FINEP long-term loans. Respondents stated that FINEX financing has not been available since September 1984 and, furthermore, that tillage tools are not eligible for FINEX, only whole tillage equipment. In response to Commerce's questionnaire, the Government of Brazil stated that the subject tillage tools were eligible for FINEX. 1/ Commerce determined the net subsidy to be 8.06 percent ad valorem and further determined that critical circumstances exist with respect to the subject imports.

The Product

Description

Tillage tools are fabricated carbon steel products used as components of tractor-pulled tilling and cultivating implements. Tilling and cultivating implements are used primarily in dryland farming to modify terrain or prepare topsoil for planting. Tillage tools are the elements of an implement that actually engage the soil surface.

Such tools may be round, rectangular, triangular, or other shapes. They vary in dimension, thickness, and weight, depending upon intended use. The useful life of these tools depends upon soil conditions, soil moisture, and the speed at which the plow or cultivator operates. The average service life can vary from one-fourth of a planting season to as long as 5 years.

Discs are round shaped, concave, or flat pieces mounted in rows on a plow frame, and they revolve when the plow is in use. They may vary from 6 to 42 inches in diameter and are used primarily in hard, dry, and sticky soil areas. Because of their market significance, discs are discussed separately in this report to the extent possible. The remainder of the subject tillage tools are hereinafter collectively referred to as "other tillage tools." They include sweeps, chisels, furrow shovels, tines, and points as well as knives, drills, listerbottoms, rotary tiller blades, bed-shaping tools, plowshares, plowshins, moldboards, and so forth.

There are many distinctly different products within each of the product categories, depending on the size, type of edge, shape, location and size of mounting holes, and other characteristics. There are approximately 50 to 100 different discs and 300 to 400 different items defined as "other tillage tools" for the purposes of this investigation.

The U.S. producers, representatives of U.S. importers, and purchasers of the merchandise imported from Brazil agreed at the staff conference during the preliminary investigation that there is no difference in apparent quality and suitability for the intended use between the subject products produced domestically and those imported from Brazil. There was further discussion on relative quality during the hearing; advertisments that claim the advertised product's superior quality and company tests were submitted. U.S. purchasers' responses to questions on relative quality are presented in the pricing section of this report.

1/ 50 F.R. 34527.

Uses

Discs and other tillage tools are used in substantially similar ways in the soil preparation and during the planting and growing season. In some cases, the implements that use the tillage tools are equipped with discs only or with "other tillage tools" only. In other cases, certain types of discs are mounted on the same equipment with certain types of "other tillage tools" and are used simultaneously. A more detailed description of the uses of some of the tillage tools follows.

Discs are used for primary tillage, i.e., to break the ground before planting (in some areas the ground breaking/primary tilling function is performed by plows that are in the "other tillage tool" product category in this report). The number of discs mounted on one piece of tillage equipment can vary from 3 to 94.

"Colters" are a special kind of disc that are mounted on plows in front of plowshares, plowshins, and moldboards ("other tillage tools"). The functions of colters are to loosen the ground somewhat before the plow turns the ground and to prevent trash from accumulating in front of the plow. Colters are estimated to account for approximately 20 to 30 percent of total disc consumption.

Another type of special disc is the furrow opener blade. These discs are used principally to retard erosion, in irrigation, and in preparing the seed-bed. Furrow opener disc blades are attached to implements along with furrowers (double v-shaped moldboards) to create small shallow ditches or ridges in a field. These ditches or ridges are created after harvest but prior to the winter to retard water erosion; they are also created before planting to create ridges onto which the seeds are planted, and during cultivation to form avenues for water to pass through the field for irrigation purposes. Furrow opener blades are also used prior to planting in the spring to "ridge" the soil, thus allowing it to dry out faster.

"Other tillage tools" include 300 to 400 different tools depending on the sizes, shapes, angles, thicknesses of material, size and location of mounting holes, and other characteristics. There are approximately 80 different chisel plow sweeps, 40 to 50 plow parts (shares, shins, moldboards), 40 different points and subsoiler points, 30 field cultivator sweeps, 30 furrowers, 20 knives, 20 shovels, 20 row crop cultivator sweeps, 10 to 20 chisels, and so forth. Other tillage tools are used for soil preparation prior to planting, for cultivation during the crop's growing cycle, and for postharvest soil conditioning.

Plows consist of three basic replaceable elements. They are plowshins, plowshares, and moldboards (one each per plow). Plowshins are the leading edge of a plow and are prone to wear. A plowshare is a rectangular shaped cutting edge that is attached to the front of a plow. This is the portion of the plow that makes first contact with the soil. A moldboard is a three-sided wedge-shaped metal plate to which the plowshin and plowshare are attached. The primary functions of the plowshare and moldboard are to cut narrow ditches in the soil (furrow slices), to break up the soil, and to invert the slices, thus burying the ground cover. The width of the furrow is dependent upon the size of the moldboard.

Furrowers are tools different from plows although they appear as dual plow moldboards that are attached in a v-shaped configuration. Furrowers create a furrow by displacing the dirt onto both sides; they are used at various times of the year.

Sweeps are generally triangular-shaped (arrowhead) tools. Some sweeps are used for soil preparation and conditioning, others for cultivating fields already planted. A cultivator has an average of 15 sweeps which, when in use, bridge the emerging rows of crops to cut the weeds and aerate the soil between the rows. Cultivating by sweeps is performed several times during the growing cycle. The sweeps differ in the width of cutting as well as the angle and depth of penetration into the ground.

The strength of the sweep required depends on the moisture content of the soil at the particular time. The root structure of the crop and the prevailing soil composition of the region also determine the type of sweep to be used. These same variables also determine the exact specifications of the chisels, points, knives, and other tillage tools selected from a variety of those product groups.

A knife is a straight piece of metal with a right-angle bend at the tip where it contacts the ground. Knives are attached to frames that allow them to pass very close to the crop, cutting down all weeds growing in the furrows and mulching the soil surrounding the emerging plants. Knives are used primarily for crops (vegetable and cotton) where sweeps would cause damage when passing close by.

Chisels are curved pieces of metal used primarily for breaking up the subsoil in order to allow air and moisture to penetrate. Chisels are mounted onto wheel-supported frames that are pulled across fields, usually in the fall after harvest. These tools break up the ground and smooth it out for the following winter months in preparation for spring planting.

Manufacturing processes

Discs.--The manufacturers of these products begin with semifinished steel slabs of varying widths and lengths, usually formed from specially tailored high-carbon steel (grades 1080-1090). The steel slabs are cut to length, cross rolled for inclusion control (i.e., rolled in a direction perpendicular to the original mill-rolling direction), and then rolled/leveled to final gauge thickness. There are also other rolling methods, depending on the exact specification of the steel used. The cross-rolled sheets are then blanked into concave circular pieces by forging presses or drop hammers. The blanks are given part identification numbers and a centerhole. They are then heated, edge bend rolled, formed, reheated, quenched, and tempered. After heat treating, the disc blades are sharpened, painted, and packaged for shipment.

Other tillage tools.--Other tillage tools also are normally formed from high-carbon steel, generally 1080 grade, because of the abrasive resistance characteristics needed by ground-working tools such as chisels, sweeps, and furrowers. The steel is generally purchased as bars, strips, sheets, or plates, depending upon the size of the desired tool. It is cut, sheared, or blanked and heated to a plastic state in an electric induction or gas furnace, then passed through a series of forging presses or drop hammers where it acquires its final form and is given a cutting edge. The shaped blank is trimmed of excess materials, cooled, heat treated to improve the mechanical properties of the finished product, painted to retard surface rust, packaged, and shipped ready for installation.

U.S. tariff treatment

Tillage tools are classified as parts of agricultural machinery and implements under item 666.00 of the Tariff Schedules of the United States. Imports of tillage tools into the United States under TSUS item 666.00 are free of customs duty.

The U.S. Market

U.S. producers

Tillage tools are known to be produced in the United States by 15 firms. The majority of these firms produce a wide variety of tillage tools. Tillage tool manufacturing facilities are located primarily in Iowa, Ohio, and Illinois. There are three petitioners in this investigation, Ingersoll, Empire, and Nichols.

Ingersoll, one of the petitioners, is located in Chicago, IL. It is the largest domestic manufacturer of discs. Ingersoll produces a full line of discs of varying configurations, ranging from 6 to 42 inches in diameter and sells them historically to original-equipment manufacturers (OEM's). * * * Ingersoll's production and sales is accounted for by discs. [1]

Empire, the second petitioner, is located in Cleveland, OH. It manufactures a variety of tillage tools, except discs and plowshares. Chisel plow sweeps and field cultivator sweeps account for the largest portion of Empire's sales and production. Empire sells tillage tools to OEM's, primarily for resale as replacement parts by the OEM dealers, and to wholesale distributors for resale, also as replacement parts, to independent implement dealers. [2] In 1985, Empire was acquired by McKay of Australia, an exporter of discs to the United States; McKay of Australia also owns McKay of Canada, an exporter of other tillage tools to the United States.

Nichols, the third petitioner, is located in Sterling, CO. It produces sweeps (e.g., row-crop, field-cultivator, danish, chisel-plow, and planting-wing sweeps), furrowers and busters, drill shoes, tiller blades, points and shovels, and vegetable tools. The majority of the tillage tools produced by Nichols are marketed through wholesale distributors as replacement parts. 1/

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[1] A detailed description of the company's operations is provided in the transcript of the staff conference, Oct. 25, 1984, pp. 8-15.
[2] Ibid., pp. 15-24.

Herschel, located in Indianola, IA, is a wholly owned subsidiary of the Steego Corp. Herschel manufactures tillage tools, replacement chains, tractor parts, and hydraulics. Sweeps and points account for * * * of Herschel's tillage tool production. Company officials indicated that Herschel produced discs prior to 1984; * * *. 2/ Herschel ceased production of discs in 1983, and has been importing them from Brazil; * * *. Herschel markets most of its tillage tools through independent farm machinery dealers, with a smaller portion going to OEM's. * * *.

Wiese, located in Perry, IA, produces a full line of tillage tools, except discs and sweeps. Specifically, Wiese produces plowshares, moldboards, landsides, shins, chisel spikes, and fertilizer knives. Wiese turned to Brazil as a source of disc blades and sweeps. Weise imports these products from Brazil because, according to a Wiese official, the major domestic manufacturers either refuse or are reluctant to sell to Wiese because of their policy to sell only to OEM's (Ingersoll) or because Wiese was a competitor in the same market. 3/ ***. The majority of Wiese's tillage tools are marketed as replacement parts through distributors, chainstores, buying groups, small OEM accounts, and cooperatives. 4/

Osmundson, located in Perry, IA, produces discs, sweeps, spikes and shovels, plowshares, and plowshins. Osmundson markets its tillage tools as replacement parts in the aftermarket. The company states that "in 1982 most of its large accounts started to purchase cheaper products from Brazil. We (Osmundson) made a decision that in the short term we should also import the products to be competitive in the marketplace. We could sell the Brazilian imports (cost plus profit) for about the same price as our manufactured items cost to make."

Deere & Co. manufactures a wide range of agricultural, industrial and consumer products. Deere, located in Moline, IL., is a large publicly held corporation. Tillage tools produced by Deere range from small tines to large sweeps and bottoms. Tillage tools account for * * * percent of Deere's total farm equipment sales. 5/ Deere markets its tools through its wholly owned subsidiary, John Deere Co., that in turn sells the subject products to independent John Deere dealers. Deere also purchases domestically produced disc blades for resale.

1/ Ibid., pp. 24-30.

2/ Telephone conversation between Herschel official and S. Vastagh of the Commission's staff on Sept. 24, 1985.

3/ Transcript of the staff conference, p. 101, and questionnaire response of Wiese Corp.

4/ A description of the history and operations of Wiese Corp. was given during the staff conference. Tr. pp. 96-116.

5/ Deere is the only company involved in this case whose tillage tool manufacturing operations do not represent the majority of the company's operations.

Piper Industries is located in Collierville, TN. It manufactures a full line of other tillage tools that are marketed through dealers, distributors, and OEM's.

U.S. Agriculture, Inc. (USAG), was formed in Rome, GA, in 1982, as a successor for International Disc Corp., a Michigan manufacturer of discs. USAG planned to fill the void that was perceived to have been left by the exit from disc manufacturing of Crucible. The President of USAG stated at the staff conference during the preliminary investigation that his company ceased production in June 1984 as a result of financial losses that allegedly were caused by U.S. sales at depressed prices of discs imported from Brazil. 1/ However, USAG provided no data to the Commission on its production and financial experience. There are statements on the record that USAG was unable to fulfill its obligations with respect to orders for discs it obtained.

Futch Manufacturing Co. was founded in 1976 to manufacture tillage tools and other parts for sale primarily in the Southeastern United States. In an affidavit, Futch Manufacturing's spokesman states that it has acquired disc producing equipment but has never made a disc because imported discs are sold for less than the cost to Futch of the raw material needed to make a disc. Futch further states that it lost other tillage tool business to imports from Brazil and the United Kingdom. Futch's lost sales allegations primarily involve British products. Futch Manufacturing did not provide usable financial data on its operations producing the subject tillage tools.

Industry sources indicate that prior to 1982 the second largest domestic producer of disc blades was the Crucible Steel Co., accounting for approximately 40 percent of the domestic market. In 1981, however, Crucible ceased production and went out of business. In 1982, Crucible's sales team organized a new company, Farmo, Inc., and became the U.S. sales company for Marchesan Implementos E. Maquinas Agricolas of Brazil. Marchesan sells its discs and other tillage tools through distributors to OEM's and in the aftermarket.

The producers, their plant locations, and their share of value of 1984 sales of domestically produced merchandise are shown in table 1.

1/ Transcript of the staff conference, pp. 30-34, 42-44, 51-52 and 58-60.

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Table 1.--Tillage tools: U.S. producers of tillage tools, location of their establishments, and sales of domestically produced merchandise, 1984

Item and firm	Plant location	Share of value of 1984 sales of U.S.-produced tillage tools
		percent
Discs:		
Ingersoll Product Co	Chicago, IL.	***
Osmundson Mfg. Co	Perry, IA.	***
Total	-	***
Other tillage tools:		
Acme	Filer, ID.	2/ ***
Adams Hard Facing	Guyman, OK.	***
Crescent Forge	Havanna, IL.	3/ ***
Deere & Co	Moline, IL.	***
Empire Plow Co	Cleveland, OH.	***
Futch	Nashville, GA.	***
Herschel Corp 1/	Indianola, IA.	***
Nichols Corp	Sterling, CO.	***
Nixdorf-Beall Mfg	St. Louis, MO.	***
Piper Industries, Inc	Collierville, TN.	3/ ***
Osmundson Mfg. Co	Perry, IA.	***
Star Manufacturing	Freeport, IL.	3/ ***
Wiese Corp	Perry, IA.	***
Total	-	100

1/ Ceased production of discs in 1983 and is presently importing discs from Brazil.

2/ * * *.

3/ Data provided verbally by company spokesmen.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. importers

The three Brazilian firms that are exporting the subject tillage tools to the United States at present are Marchesan, Baldan, and Semeato. The fourth Brazilian producer, Metisa, has attempted to sell in the United States, but is not currently exporting.

Each Brazilian producer sells the majority of its exports to a single U.S. importer that, in turn, acts as a "super" wholesaler-distributor and resells the products to other distributors, dealers, and OEM's. Marchesan's products are imported by Farmo, Inc. (Farmo); Baldan's products by Agridisc & Implements Corp. (Agridisc); and Semeato's products primarily by * * *. In addition to these principal importers, the Brazilian producers also sell directly to several additional U.S. companies.

Farmo.--The company was started in 1982 for the purpose of importing the subject products produced by Marchesan and marketed in the United States under the brandname "Tatu." The stockholders of Farmo are also stockholders of * * *. The Farmo staff was recruited from the sales staff of Crucible. Farmo sells to both the aftermarket and to OEM's.

Agridisc.--The company was started and incorporated in Florida in April 1982. It employs * * * people in * * * square feet of office space. Agridisc imports and wholesales the subject tillage tools and other equipment for the farm industry. The company reports that most of its customers have never purchased the subject products from U.S. manufacturers, but have instead purchased for years from France, Australia, and Canada. ***. Agridisc sells mostly to wholesalers and chainstores.

Agridisc has about * * * customers. * * * of these customers accounted for * * * of Agridisc's total sales of the subject products, as shown in the following tabulation (in percent):

* * * * * * *.

Herschel.--This company stopped manufacturing discs in 1984 * * *. The company also stated that "the decision to import Brazilian disc blades was based * * *." Herschel *** manufactures the other tillage tools in the United States.

Herschel reports that it does not support the petition because:

* * * * * * *.

Wiese Corp.--This company is a manufacturer of a complete line of tillage tools, except for discs and sweeps, which it imports from Brazil.

Wiese reports that it does not support the petition because:

* * * * * * *.

Central Tractor Farm & Family Center, Inc.--This company is a privately held corporation operating a chain of 35 retail stores that sell farming and hardware items. It imports the subject products from Brazil. 1/ * * *.

* * *.--This company is a wholesaler of discs. It imported * * *; currently it imports * * *. The company states that "our inability to purchase good quality discs manufactured by U.S. manufacturers at competitive prices--such as Ingersoll products--forced us a number of years ago to seek overseas suppliers." 2/

* * *.--This wholesaler bought discs overseas for over 15 years; it switched entirely to Brazilian imports in 1983-84. The company's sales have grown 10 percent annually since 1975.

* * *.--A wholesaler operating primarly in * * *. It began importing Brazilian discs and other tillage tools in October-December 1984.

* * *.--An OEM, importing * * * of discs from Brazil, * * *.

* * *.--* * *. It imports discs from Brazil and uses the imported discs as part of the original equipment it sells and also as replacement parts. Similar to the approximately 250 to 300 OEM's that make implements of various kinds that are equipped with the subject tillage tools, * * * makes specialized types of tillage implements for a regional market and imports the discs needed therefor. * * * the company did not respond to the Commission's questionnaire.

Channels of distribution

Sales of tillage tools by U.S. producers and importers are to either OEM's or to the replacement market. OEM's generally purchase tillage tools for use as components on farm implements they produce. OEM's also compete in the replacement market through sales of brand name tillage tools to related or independent dealers. There are an estimated 250-300 OEM's that manufacture various types of tilling and cultivating implements. These are generally small companies (with the exception of a few major ones) that make one or a few of the many specialized tilling implements, usually for a local or regional market. U.S. producers and importers of tillage tools from Brazil compete directly in the OEM market for sales to farm implement manufacturers. Industry representatives reported that approximately 40 to 50 percent of the disc sales and 20 percent of other tillage tool sales are made to OEM's, with the remainder to the replacement market. 3/4/

1/ A detailed description of the company's operations can be found in the transcript of the staff conference at pp. 116-124.

2/ Questionnaire response.

3/ Transcript of staff conference, pp. 63-64.

4/ Industry representatives cautioned that these ratios can change appreciably from year to year, depending on market conditions. For example, when the farm economy is weak, the portion of tillage tool sales to the replacement market will increase. The long-term trend for OEM sales has been downward, however.

Tillage tool sales to the replacement market are generally through wholesalers/distributors that sell to dealers or parts houses, that in turn sell to the farmers. 1/ Dealers sell both farm equipment parts (including tillage tools) and complete farm equipment; parts houses sell a broad range of farm equipment parts in addition to the subject products, but not complete farm equipment. The replacement market services the needs of farmers that choose to replace wornout tillage tool components.

In the replacement market, tillage tool importers and U.S. producers generally compete directly for sales to wholesalers/distributors, although competition can also be at other distribution levels. For example, Ingersoll, the major U.S. disc producer, has a policy of selling disc blades only to OEM's and does not compete directly in the replacement market. However, it competes indirectly in the replacement market through the OEM's it supplies. Smaller U.S. producers may sell directly to dealers, but some of these have different price lists for such sales. Importers may also sell directly to dealers.

The following tabulation shows the approximate distribution of the sales of major U.S. producers and importers of discs between OEM and aftermarket uses in 1984 (in percent):

Company	OEM	Aftermarket
U.S. producers:		
Ingersoll-------------	***	***
Osmundson-------------	***	***
Importers:		
Agridisc--------------	***	***
Farmo-----------------	***	***
Herschel--------------	***	***
Wiese-----------------	***	***

The following tabulation shows the approximate distribution of sales of major U.S. producers and importers of other tillage tools between OEM and aftermarket customers in 1984 (in percent):

Company	OEM	Aftermarket
U.S. producers:		
Adams-----------------	***	***
Empire----------------	[illegible]	***
Deere & Co------------	***	***
Nichols---------------	***	***
Nixdorf---------------	***	***
Osmundson-------------	***	***

1/ These channels of distribution are not always strictly adhered to. For example, large parts houses can buy directly from tillage tool producers and compete with wholesalers/distributors for sales to dealers.

38.

Company	OEM	Aftermarket
Importers:		
Agridisc	***	***
Farmo	***	***
Herschel	***	***
Wiese	***	***

Apparent U.S. consumption

The result of the decline in the U.S. farm economy beginning in the early 1980's was that farmers bought less tillage equipment (on which the subject tillage tools are mounted). Rather, they repaired the old equipment, purchasing new parts. These new parts, the ground engaging tillage tools, are the subject of this investigation. Thus, a decline in the farm economy affects the consumption of tillage tools to a much lesser extent than it affects the consumption of equipment. 1/

Consumption of tillage tools in 1983 may have been negatively affected by the U.S. Government's payment-in-kind (PIK) and other acreage control programs. In the PIK program, the U.S. farmers that reduced their planted acreage were reimbursed with products to replace the crops not produced. Acreage control programs affected 77 million acres in 1983, 29 million acres in 1984, and 30 million acres in 1985. Because a bumper crop is expected in 1985, the acreage control programs are also expected to increase again in 1986. Another factor affecting the consumption of tillage tools is the current school of thought that advocates "minimum till" and "no till" cultivation. Its proponents prefer the use of chemicals for weed control over tilling because breaking up the ground through tilling hastens soil erosion. It is not known how "minimum till" and "no till" will be accepted by U.S. agriculture in the long term, but some speculate that the residual effects of the increased use of chemicals and the U.S. consumers' fear of chemicals will decrease the no till cultivation. No till farming is practiced on less than 5 percent of the total area farmed in the United States.

Data on imports of tillage tools are necessary for calculating apparent U.S. consumption. Such data are not available from a secondary source such as official import statistics collected by the U.S. Department of Commerce, because the TSUS numbers covering the subject products include products other than tillage tools. The Commission did collect primary (questionnaire) data on imports from Brazil. Obtaining complete primary data on imports of tillage tools from France, Australia, the United Kingdom, and Canada is not feasible because these exporters sell in the United States directly to a very large number of U.S. farm equipment OEM's, wholesalers/distributors, and dealers, rather than through a few importers. For these latter countries, the Commission obtained data from the foreign exporters through the U.S. State Department. Data on apparent U.S. consumption of discs are shown in table 2.

1/ Such a decline is likely to shift some of the sales of tillage tools from OEM equipment dealers to replacement-part retailers.

U.S. consumption of discs increased slightly from * * * million in 1982 to * * * million in 1983. In 1984, consumption increased sharply to * * * million , or by 34 percent. In January-June 1985, consumption sharply decreased to * * * million from * * * million in the previous year, or by 33 percent. Although consumption of discs increased from 1982 to 1983, domestic shipments decreased by * * * percent during the same period. Most of the 1984 increase in consumption was supplied by the increasing imports rather than by domestic shipments.

U.S. consumption of other tillage tools decreased slightly from 1982 to 1983. In 1984, consumption of other tillage tools increased sharply to * * * million from * * * million, or by 28 percent. In January-June 1985, consumption of other tillage tools decreased, but not as sharply as that of discs, from * * * million in January-June 1984 to * * * million in January-June 1985, or by 9 percent.

Table 2.--Tillage tools: Domestic shipments, imports, apparent U.S. consumption, and market penetration, 1982-84, January-June 1984, and January-June 1985

Item	1982	1983	1984	January-June--	
				1984	1985
Discs:					
Domestic shipments---1,000 dollars--:	***	***	***	***	***
Imports from Brazil------------do----:	***	***	***	***	***
Imports from other sources ---do----:	***	***	***	***	***
Total imports---------------do----:	***	***	***	***	***
Apparent U.S. consumption-----do----:	***	***	***	***	***
Market penetration by imports--					
From Brazil--------------percent--:	1.3	10.4	17.2	15.3	17.2
From other sources ---------do----:	***	***	***	***	***
Total imports-------------do----:	***	***	***	***	***
Other tillage tools:					
Domestic shipments---1,000 dollars--:	***	***	***	***	***
Imports from Brazil------------do----:	***	***	***	***	***
Imports from other sources----do----:	***	***	***	***	***
Total imports---------------do----:	***	***	***	***	***
Apparent U.S. consumption-----do----:	***	***	***	***	***
Market penetration by imports--					
From Brazil--------------percent--:	-	2.4	2.7	3.1	3.2
From other sources ---------do----:	***	***	***	***	***
Total imports-------------do----:	***	***	***	***	***

Source: Shipments taken from table 4, imports from table 15.

Consideration of Material Injury to an Industry in the United States

U.S. production, capacity, and capacity utilization

Table 3 shows the U.S. industry's aggregate production, capacity, and capacity utilization for discs and for other tillage tools.

The U.S. industry's capacity to produce discs is listed by companies; since Herschel * * * capacity to produce discs is omitted. Aggregate capacity has remained unchanged since 1982. One additional U.S. producer, Crucible Steel, whose last full production year was 1981, reportedly had a capacity of 50 to 60 million pounds per year and produced 32 million pounds in 1981 1/. The U.S. industry's capacity to produce discs in 1981 was thus about * * * million pounds; its production was about * * * million pounds and capacity utilization in 1981 was * * * percent. Crucible's parent, Colt Industries, sold some of Colt's operations to Jones & Laughlin Steel Corp. in 1982-83; however, Crucible's disc operations were not purchased.

Capacity utilization for disc production dropped slightly from 1982 to 1983, and improved somewhat in 1984. Since the industry only produced at about * * * percent of capacity in 1981, the last year prior to Crucible's exit, it appears that there was excess capacity prior to 1982. Furthermore, there appears to be confirmed excess capacity in the years following Crucible's exit, as capacity utilization remained under * * * percent during 1982-84. Both production and capacity utilization for discs in January-June 1985 were sharply below those in January-June 1984.

The capacity to produce other tillage tools also remained relatively stable during 1982-83 at 85 million pounds, and increased slightly to 89 million pounds in 1984. Production dropped from 49 million pounds in 1982 to 43 million pounds in 1983 and then increased to 55 million pounds in 1984, resulting in a capacity utilization rate of 58 percent in 1982, 51 percent in 1983, and 62 percent in 1984. Production of other tillage tools decreased, although not as sharply as that of discs, from 33 million pounds in January-June 1984 to 29 million pounds in the corresponding period of 1985, or by 12 percent.

U.S. producers' domestic and export shipments

U.S. producers' domestic and export shipments of the subject products produced in their U.S. establishments, are shown in table 4.

Exports accounted for approximately 1 to 5 percent of domestic shipments of U.S.-made discs and approximately 10 percent of domestic shipments of U.S.-made other tillage tools. The principal export market for the U.S.-produced products is Canada.

1/ Respondents' prehearing brief, app. 1, p. 1.

Table 3.--Tillage tools: U.S. production, capacity, and capacity utilization, 1982-84, January-June 1984, and January-June 1985

Item	1982	1983	1984	January-June-- 1984	January-June-- 1985
Discs: 1/					
Capacity:					
Ingersoll-----million pounds--	***	***	***	***	***
Osmundson---------------do----	***	***	***	***	***
Total-----------------do----	***	***	***	***	***
Production:					
Ingersoll-----million pounds--	***	***	***	***	***
Osmundson---------------do----	***	***	***	***	***
Total 2/--------------do----	***	***	***	***	***
Capacity utilization:					
Ingersoll------------percent--	***	***	***	***	***
Osmundson---------------do----	***	***	***	***	***
Total 2/--------------do----	***	***	***	***	***
Other tillage tools:					
Capacity--------million pounds--	84	85	89	3/ 51	3/ 51
Production----------------do----	49	43	55	33	29
Capacity utilization---percent--	58	51	62	65	57

1/ Excludes U.S. Agriculture because no questionnaire response was received by the Commission. Companies included account for 100 percent of shipments in 1984.

2/ Because of rounding, figures may not add to the totals shown.

3/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Domestic shipments of such discs by U.S. producers were * * * million units in 1982, decreased to * * * million units in 1983, and increased to * * * million units in 1984. From January-June 1984 to the corresponding period in 1985, such shipments of discs decreased sharply from * * * million to * * * million units, or by more than * * * percent. Such shipments of other tillage tools were at * * * million and * * * million units in 1982 and 1983 and increased to * * * million units in 1984. In January-June 1985, they decreased to * * * million units from * * * million units in the corresponding period of 1984, or by 7 percent.

Table 4.--Tillage tools: U.S. producers' domestic and export shipments of domestically produced merchandise, 1982-84, January-June 1984, and January-June 1985 1/

Item	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 units)				
Discs, domestic shipments:					
Crucible 2/	***	***	***	***	***
Ingersoll	***	***	***	***	***
Osmundson	***	***	***	***	***
Herschel	***	***	***	***	***
Total	***	***	***	***	***
Discs, export shipments	***	***	***	***	***
Other tillage tools:					
Domestic shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
	Value (1,000 dollars)				
Discs: domestic shipments:					
Crucible 2/	***	***	***	***	***
Ingersoll	***	***	***	***	***
Osmundson	***	***	***	***	***
Herschel	***	***	***	***	***
Total	***	***	***	***	***
Discs, export shipments	***	***	***	***	***
Other tillage tools:					
Domestic shipments	***	***	***	***	***
Export shipments	***	***	***	***	***

1/ Firms responding accounted for 100 percent of total disc shipments and approximately 90 percent of total domestic shipments of other tillage tools, in 1984.

2/ Crucible's 1982 sales were estimated by Mr. Robert Moore of Farmo, Inc., an employee of Crucible in 1982. Crucible ceased shipments of discs in early 1982.

3/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The value of domestic disc shipments decreased from * * * million in 1982 to * * * million 1983; it then increased to * * * million in 1984. Such shipments decreased from * * * million in January-June 1984 to * * * million in January-June 1985, or by * * * percent.

The value of domestic shipments of other tillage tools followed the same trend, decreasing from * * * million in 1982 to * * * million in 1983 and then increasing to * * * million in 1984. Such shipments were * * * million in January-June 1984 and decreased to * * * million in January-June 1985, or by 8 percent.

Osmundson has been, during the period under investigation, an importer as well as a producer of discs. Its shipments are shown in the following tabulation (in thousands of units):

Period	Sales of discs made in-- United States	Brazil	Total
1982---------------	***	***	***
1983---------------	***	***	***
1984---------------	***	***	***
January-June--			
1984-------------	***	***	***
1985-------------	***	***	***

Osmundson's sales of discs * * * .

U.S. producers' inventories

U.S. producers' end-of-period inventories of domestically produced merchandise are shown in table 5. Manufacturers' inventories of U.S.-made

Table 5.--Tillage tools: U.S. producers' inventories of U.S.-made merchandise, as of Dec. 31, 1981-84, and as of June 30, 1984-85

(In thousands of units)

Item	1981	1982	1983	1984	As of June 30-- 1984	1985
Inventories of U.S. made tillage tools:						
Discs-----------------:	***	***	***	***	***	***
Other tillage tools---:	7,883	7,299	6,024	6,698	4,956	5,828

1/ Firms responding accounted for 100 percent of total disc sales and approximately 90 percent of other tillage tools sales in 1984.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission merchandise produced in their establishments were higher at the end of 1981 than at any time since. Inventories of discs decreased by * * * percent from 1981 to 1982, increased by * * * percent in 1983, and remained substantially at that level in 1984. The June 30, 1985, inventories of discs are * * * percent lower than those of June 30, 1984. Inventories of other tillage tools decreased from 1981 to 1982 by about 7 percent; unlike discs, they decreased further in 1983 by about 18 percent and then increased in 1984 by 10 percent. Midyear 1985 inventories were 18 percent higher than midyear 1984 inventories.

U.S. employment, wages, and productivity

U.S. employment, wages, and total compensation, as well as average hourly wages and average labor output per hour for the U.S. industry producing discs and other tillage tools are shown in table 6.

For discs, the employment indicators followed the trend of disc sales; decreasing from 1982 to 1983, and increasing in 1984. Although hours worked and wages paid in 1984 recovered and surpassed 1982 levels by * * * percent, the number of production workers remained * * * percent below the 1982 level. All employment indicators for discs decreased * * * in January-June 1985 compared with those in January-June 1984. The average number of production and related workers was * * * in January-June 1985 compared with * * * in the corresponding period the previous year.

For the production of other tillage tools the employment indicators decreased from 1982 to 1983 and increased in 1984. This increase was more uniform than that for discs; the number of workers, hours worked, and wages paid in 1984 all surpassed the 1982 levels by 5 to 15 percent. The number of production and related workers and hours worked in the production of other tillage tools decreased in January-June 1985 compared with those in January-June 1984; labor output per hour remained substantially the same.

Financial experience of U.S. producers

Two firms, Osmundson Manufacturing Co. and Ingersoll Products Corp., provided usable income-and-loss data on their operations producing discs. * * * firms 1/ furnished usable income-and-loss data on their operations producing other agricultural tillage tools.

Discs.--Ingersoll and Osmundson accounted for 100 percent of total U.S. shipments of discs in 1984. Ingersoll is the dominant producer; its share of aggregate net sales in 1984 was * * * percent. The range of Ingersoll's share of aggregate net sales has been from * * * percent * * * to * * * percent * * *. Aggregate net sales of discs declined * * * percent from * * * million in 1982 to * * * million in 1983, then increased * * * percent to * * * million in 1984 (table 7). For the interim periods, aggregate net sales decreased * * * percent from * * * million in 1984 to * * * million in 1985.

1/ * * *.

Table 6.--Tillage tools: Average number of employees, total and production and related workers, number of hours worked, wages and total compensation paid, average hourly wages, and labor output, 1982-84, January-June 1984, and January-June 1985 1/

Item	1982	1983	1984	January-June--	
				1984	1985
Average number employed in the reporting establishment(s):					
All persons	5,069	4,006	4,560	4,478	4,186
Production and related workers producing--					
All products	3,821	2,863	3,471	3,396	3,182
Discs	***	***	***	***	***
Other tillage tools	447	416	477	429	425
Hours worked in producing--					
All products 1,000 hours	6,766	5,305	6,486	3,365	3,068
Discs do	***	***	***	***	***
Other tillage tools 1,000 hours	816	771	910	424	338
Wages paid for producing--					
All products 1,000 dollars	109,579	84,539	106,906	53,088	53,083
Discs do	***	***	***	***	***
Other tillage tools 1,000 dollars	8,878	8,687	10,808	4,809	5,335
Total compensation paid for producing--					
All products 1,000 dollars	157,394	123,392	157,472	78,400	79,806
Discs do	***	***	***	***	***
Other tillage tools 1,000 dollars	11,320	11,215	14,160	6,457	7,245
Average hourly wages paid for producing--					
Discs do	***	***	***	***	***
Other tillage tools	10.88	11.27	11.88	11.34	15.78
Labor output per hour:					
Discs units	***	***	***	***	***
Other tillage tools units	16.4	14.7	17.2	21.2	21.0

1/ Firms responding accounted for 100 percent of 1984 disc sales and over 80 percent of 1984 sales of other tillage tools.

2/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 7.--Income-and-loss experience of 2 U.S. producers on their operations producing discs, accounting years 1982-84 and interim periods ended June 30, 1984, and June 30, 1985

Item	1982	1983	1984	Interim period--	
				1984	1985 1/
Net sales------1,000 dollars--	***	***	***	***	***
Cost of goods sold------do----	***	***	***	***	***
Gross profit or (loss)--do----	***	***	***	***	***
General, selling, and administrative expenses--------------do----	***	***	***	***	***
Operating income or (loss) ---------------do----	***	***	***	***	***
Depreciation and amortization expense included above---------do----	***	***	***	***	***
As a share of net sales:					
Cost of goods sold-percent--	***	***	***	***	***
Gross profit or (loss) do----	***	***	***	***	***
General, selling, and administrative expenses------------do----	***	***	***	***	***
Operating income or (loss)--------------do----	***	***	***	***	***
Number of firms reporting operating losses------------	***	***	***	***	***

1/ Osmundson's data are for 5 months ended May 31, 1985.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Respondents in their pre- and post-hearing briefs cited reports in which Ingersoll and Osmundson spokesmen provided positive statements on the companies' 1984 finances. Such statements are consistent with the data shown in table 7 above. Fiscal 1984 was indeed an improvement over the previous years for these two companies.

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The industry sustained aggregate operating losses in 1982 and 1983, but reported aggregate operating income in 1984. The operating loss in 1982 was * * *, percent of net sales; in 1983, the operating loss was * * * percent of sales. Operating income in 1984 was * * * percent of sales. During the interim periods, * * *; * * *. The interim period * * * margins in 1984 and 1985 were * * * percent and * * * percent, respectively.

Ingersoll's impact on aggregate operating income or loss is shown in the following tabulation (in thousands of dollars):

				January-June--	
	1982	1983	1984	1984	1985
Ingersoll----------	***	***	***	***	***
Osmundson----------	***	***	***	***	***
Aggregate--------	***	***	***	***	***

Other tillage tools.--The * * * producers accounted for * * * percent of total U.S. shipments of other tillage tools in 1984. Aggregate net sales declined from $38.5 million in 1985 to $36.4 million, representing a drop of 5.6 percent, then increased by 23.5 percent to $44.9 million in 1984. During the interim period, sales decreased from $24.4 million in 1984 to $22.6 million in 1985, or by 7.5 percent (table 8).

Profitability improved each year from 1982 to 1984. Operating income grew from $3.0 million in 1982 to $3.3 million in 1983, then jumped by 37.6 percent to $4.6 million in 1984. Similarly, the operating income margin improved steadily during 1982-84, increasing from 7.9 percent in 1982 to 9.1 percent in 1983 and 10.1 percent in 1984. During the interim period, despite an increase in gross profit from 1984 to 1985 on lower sales volume, operating income and the operating margin declined from 1984 to 1985. Operating income decreased by 21.7 percent, from $2.3 million in 1984 to $1.8 million in 1985. The operating margins in interim periods 1984 and 1985 were 9.3 percent and 7.8 percent, respectively.

*** of the domestic producers, ***, import discs in significant quantities and *** imports about * * * percent of its other tillage tools. A comparison of certain income-and-loss data submitted by * * * "importers" with data submitted by * * * "non-importers" on their operations producing other tillage tools are presented in table 9.

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Table 8.--Income-and-loss experience of U.S. producers on their operations producing other tillage tools, accounting years 1982-84 and interim periods ended June 30, 1984, and June 30, 1985

Item	1982	1983	1984	Interim period--1/	
				1984	1985
Net sales------1,000 dollars--	38,516	36,374	44,917	24,391	22,567
Cost of goods sold------do----	29,243	26,636	32,797	18,865	16,960
Gross profit -----------do----	9,273	9,738	12,120	5,526	5,607
General, selling, and administrative expenses--------------do----	6,237	6,431	7,569	3,267	3,838
Operating income or (loss) ---------------do----	3,036	3,307	4,551	2,259	1,769
Depreciation and amortization expense included above 2/-----do----	908	979	1,245	703	681
As a share of net sales:					
Cost of goods sold-percent--	75.9	73.2	73.0	77.3	75.2
Gross profit----------do----	24.1	26.8	27.0	22.7	24.8
General, selling, and administrative expenses------------do----	16.2	17.7	16.9	13.4	17.0
Operating income or (loss)--------------do----	7.9	9.1	10.1	9.3	7.8
Number of firms reporting operating losses------------	1	0	0	0	0

1/ * * * accounting year ends on June 30; their interim period data are for the 12-month periods ended June 30, 1984 and June 30, 1985. * * * did not provide usable interim period data.

2/ * * * did not provide depreciation and amortization expense for 1982 and 1983.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 9.--Comparison of certain income-and-loss data for U.S. producers that import some tillage tools from Brazil with U.S. producers that do not import any tillage tools from Brazil on their operations producing other tillage tools, accounting years 1982-84 and interim periods ended June 30, 1984, and June 30, 1985

Item	1982	1983	1984	Interim period 1/	
				1984	1985
Net sales:					
Non-importers--1,000 dollars--	***	***	***	***	***
Importers----------------do----	***	***	***	***	***
Total------------------do----	***	***	***	***	***
Gross profit:					
Non-importers--1,000 dollars--	***	***	***	***	***
Importers----------------do----	***	***	***	***	***
Total------------------do----	***	***	***	***	***
Operating income:					
Non-importers--1,000 dollars--	***	***	***	***	***
Importers----------------do----	***	***	***	***	***
Total------------------do----	***	***	***	***	***
Ratio to net sales:					
Non-importers--------percent--	***	***	***	***	***
Importers----------------do----	***	***	***	***	***
Total------------------do----	***	***	***	***	***
Operating income:					
Non-importers-----------do----	***	***	***	***	***
Importers----------------do----	***	***	***	***	***
Total------------------do----	***	***	***	***	***

1/ * * * accounting year ends on June 30. Its interim period data are for the 12-month periods ended June 30, 1984, and June 30, 1985. * * * did not provide usable interim period data; interim period data are for * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Capital expenditures and research and development expenses.--* * * of the * * * U.S. producers that provided usable income-and-loss data on their operations producing discs and/or other tillage tools furnished data on their capital expenditures for land, buildings, machinery, and equipment used in the production of the subject products, and * * * of the * * * furnished data on their research and development expenses. Osmundson, not being able to report capital expenditures for discs and other tillage tools separately, provided combined capital expenditures.

Aggregate capital expenditures on discs and other agricultural tillage tools decreased from $2.2 million in 1982 to $1.6 million in 1983, then remained nearly unchanged at $1.5 million in 1984. Capital expenditures increased from $546,000 in interim 1984 to $598,000 in the corresponding period of 1985. Total research and development expenses on all tillage tools grew slightly from $221,000 in 1982 to $238,000 in 1983, then increased to $529,000 in 1984. Research and development expenses amounted to $349,000 and $311,000 during the interim periods of 1984 and 1985, respectively.

Aggregate capital expenditures on discs and other tillage tools are shown in the following tabulation (in thousands of dollars):

	Discs	Other tillage tools	Osmundson	Total
1982	***	***	***	$2,172
1983	***	***	***	1,559
1984	***	***	***	1,538
January-June--				
1984	***	***	***	546
1985	***	***	***	598

Research and development expenses on discs and other tillage tools are shown in the following tabulation (in thousands of dollars):

	Discs	Other tillage tools	Total
1982	***	***	$221
1983	***	***	238
1984	***	***	529
January-June--			
1984	***	***	349
1985	***	***	311

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Capital and investment.--U.S. producers provided questionnaire comments as to the actual and potential negative effects of imported agricultural tillage tools on their firms' growth, investment, or ability to raise capital. Their verbatim comments are provided below:

Wiese Corp. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Osmundson Manufacturing Co. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Deere & Co. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Ingersoll Products Corp. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Nichols Tillage Tools, Inc. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Futch Mfg. Co., Inc. (tillage tools represent * * * percent of corporate sales)

* * * * * * *

Consideration of the Threat of Material Injury to an Industry in the United States

There are several factors considered by the Commission in determining whether an industry in the United States is threatened with material injury by reason of subsidized imports. Information on the nature of the subsidy is presented in the section of this report entitled "Nature and extent of subsidies," information on market penetration in the "U.S. imports and market penetration" section, and information on pricing in the "Prices" section. Data on inventories of the imported product in the United States and information on capacity and potential product shifting by the foreign producer are discussed below.

U.S. importers' inventories

U.S. importers' inventories of tillage tools imported from Brazil and those purchased from U.S. or other foreign sources are shown in table 10. Inventories of discs imported from Brazil increased from 1982 to 1983 and also increased as of June 30, 1985, compared with that of June 30, 1984.

The * * * U.S. importers, * * *, do not keep inventories; the data in table 10 include importers that are U.S. distributors or OEM's and import directly from Brazil. The inventories of Brazilian merchandise held by * * *, are also included in the data in table 10.

U.S. importers' inventories of discs imported from Brazil were * * * at the end of 1981 and 1982; such inventories were * * * units as of December 31, 1983, and rose to * * * units by the end of 1984. Midyear inventories of Brazilian discs held by U.S. importers were * * * units in 1984 and * * * units in 1985, representing an increase of 56 percent.

U.S. importers held no inventories of other tillage tools imported from Brazil at the end of 1981 and 1982. As of December 31, 1983, such inventories were * * * units; they almost doubled to * * * units by the end of 1984. Midyear inventories of other tillage tools imported from Brazil decreased from * * * units in 1984 to * * * units by June 30, 1985, or by 7 percent. Petitioners stated that the U.S. purchasers, not the importers, hold much of the inventories of Brazilian tillage tools and suggest that consideration of threat of material injury should take into account such inventories.

Table 10.--Tillage tools: U.S. importers' inventories of products imported from Brazil as of December 31, 1981-84, and as of June 30, 1984-85

* * * * * * *

Purchasers' inventories

Purchasers were asked to report the quantity and origin of their end-of-period inventories for the years 1981 through 1984, and for the interim periods of January-June 1984 and January-June 1985. These inventory data are presented in table 11. Such data are shown separately for discs and other tillage tools, by type of purchaser. Because the reporting purchasers represent a small proportion of all purchasers of tillage tools, the data must be interpreted with caution. Thus, trends contained in these data may or may not be representative of all purchasers' inventories. Purchasers' end-of-period inventories of Brazilian discs increased continuously from 2,000 units in 1981 to 191,000 units in 1984, and increased 62 percent to 159,200 units at midyear 1985 compared with 98,500 units in inventory at midyear 1984. Similarly, purchasers' inventories of other tillage tools from Brazil increased every year, from 1,000 units in 1981 to 100,500 units in 1984, and have increased to 90,500 units at midyear 1985, which is 22 percent higher than the midyear 1984 inventory level.

Purchasers' end-of-period inventories of discs produced by U.S. firms decreased during 1981-83, but began to increase in 1984. At midyear 1985, end-of-period inventories of U.S.-produced discs were 142,400 units, which is 89 percent higher than midyear-1984 inventories. Inventories of other tillage tools produced in the United States fluctuated markedly but rose over the period 1981-84 period. These inventories increased further to 719,900 units at midyear 1985, or by 72 percent, compared with the level of inventory at midyear 1984. Like end-of-period inventories of the Brazilian tillage tools, purchasers' end-of-period inventories of tillage tools produced in all other countries (except Brazil and the United States) have also generally increased in every period, although the increases have been smaller. For both discs and other tillage tools, reporting purchasers held more imports from other countries than Brazilian products in inventory until 1983. From 1983 through January-June 1985, there were more tillage tools from Brazil held in inventory than from any other imported source.

Ability of foreign producers to generate exports and the availability of export markets other than the United States

The petitioners and counsel for the Brazilian producers identified four firms that produce the subject tillage tools in Brazil: Marchesan, Baldan, Semeato, and Metisa. Eight additional Brazilian producers of the subject tillage tools were identified by the U.S. Department of State from sources other than the Brazilian Association of Industrial Machines and Equipment (ABIMAQ) (telegram dated Oct. 24, 1984); counsel for the Brazilian producers states that these eight firms are small and do not export to the United States, and further states that only three of the four larger Brazilian producers export to the United States (Marchesan, Baldan, and Semeato).

Table 11.--Tillage tools: Purchasers' end-of-period inventories of discs and other tillage tools, by source of material and by purchaser category, as of December 31, 1981-84, June 30, 1984, and June 30, 1985.

(In thousands of units)

Item	1981	1982	1983	1984	As of June 30--	
					1984	1985
Imported from Brazil:						
Discs:						
OEM's	2.0	2.0	13.9	28.8	2.2	35.9
Wholesalers	1/	5.6	5.4	12.2	26.3	18.3
Other purchasers	1/	.2	108.0	150.0	70.0	105.0
Total	2.0	7.8	127.3	191.0	98.5	159.2
Other tillage tools:						
OEM's	1/	1/	1/	1/	1/	1/
Wholesalers	1.0	10.0	31.0	100.5	74.0	84.5
Other purchasers	1/	1/	1/	1/	1/	6.0
Total	1.0	10.0	31.0	100.5	74.0	90.5
Produced by U.S. firms:						
Discs:						
OEM's	118.3	84.3	68.4	61.2	22.3	52.0
Wholesalers	104.7	85.8	36.4	110.0	28.0	67.4
Other purchasers	17.6	17.0	26.0	26.0	25.0	23.0
Total	240.6	187.1	130.8	197.2	75.3	142.4
Other tillage tools:						
OEM's	96.1	81.7	72.6	67.9	58.6	89.7
Wholesalers	189.6	319.3	162.8	155.2	104.5	212.8
Other purchasers	120.4	152.9	248.0	309.6	254.4	417.4
Total	406.1	553.9	483.4	532.7	417.5	719.9
Produced in all other countries: 2/						
Discs:						
OEM's	11.2	15.1	20.0	20.0	10.0	21.0
Wholesalers	29.7	30.6	41.4	53.6	1.7	52.7
Other purchasers	.5	2.2	3.0	4.2	2.4	2.9
Total	41.4	47.9	64.4	77.8	14.1	76.6
Other tillage tools:						
OEM's	12.4	14.2	11.6	15.9	6.9	18.0
Wholesalers	1/	1/	1/	5.0	11.0	8.0
Other purchasers	1/	1.0	3.9	9.0	10.8	.4
Total	12.4	15.2	15.5	29.9	28.7	26.4

1/ No data reported.
2/ Except Brazil and the United States.

Source: Data submitted in response to questionnaires of the U.S. International Trade Commission.

Brazilian exports.--Table 12 shows data of the Foreign Trade Department of the Bank of Brazil (CACEX) that include the subject tillage tools. The data for category 84.24.90.00, shown in table 12, also include non tillage metal components (e.g., screws) because no separate export statistics exist for tillage tools. Although the exact share of tillage tools in category 84.24.90.00 is unknown, industry sources in Brazil estimated that it is 52 percent. The same sources estimated that 25 to 30 percent of total tillage tool production is exported.

The CACEX figures indicate a major shift in export markets. Since 1981, sales to the African and Latin American markets have decreased. The shrinking or stagnation of these markets was compensated, however, by the increase in sales to North America, particularly the United States. In only 3 years, the Brazilian tillage tool industry has gone from broad export diversification to one that is strongly oriented toward the North American market. In 1982, the United States accounted for 50 percent (by value) of exports; in 1984, the United States accounted for 83 percent of Brazil's exports. Total exports grew by 102 percent during 1982-84, although exports to countries other than the United States have decreased by 30 percent from 1982 to 1984. This growth was entirely caused by growth in the U.S. market.

Table 12.--Tillage tools and other tillage components: Brazil's exports, 1982-85

Item	1982	1983	1984	1985 1/
Exports 2/ to--				
United States-------1,000 dollars--	2,839	6,147	9,533	6,580
Canada----------------------do----	506	1,052	642	687
All other-------------------do----	2,354	1,458	1,375	1,533
Total--------------------do----	5,699	8,657	11,550	8,800

1/ Projected; partial year data are not available.
2/ No export data are available in terms of the number of units exported.

Source: Foreign Trade Department of the Banco de Brasil (CACEX), category 84.24 90.00 (State Department telegram No. 296827, Sept. 7, 1985).

Separate export data for discs compared with other tillage tools are not available. Industry sources in Brazil estimate that exports to the United States are composed of "at least" 80 percent discs and 20 percent other tillage tools. They explain this export pattern by the predominance of disc-type (as opposed to plow-type) cultivation in most areas of Brazil. Brazilian exporters have tended to focus their efforts on those countries that possess agricultural conditions (and hence equipment requirements) that are similar to their own country (e.g., Latin America, Africa, and North America). This has allowed them to export the same tools that are commonly produced for the domestic market. Although discs are predominant, disc manufacturers also produce a wide range of other tools in the same factories,

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employing the same technology, marketing, and sales organizations. Scrap metal left over from disc production typically is used to make other tillage tools, such as chisels.

Brazilian production capacity and capacity utilization.--The following tabulation shows data provided by ABIMAQ 1/ and data provided by the Brazilian producers 2/ on the aggregate Brazilian production of the subject tillage tools during 1982-84, the latest period for which data were available (in thousands of units):

	ABIMAQ data on--	ABIMAQ data on--	Producers' data on--	Producers' data on--
Perio	Discs	Other tillage tools	Discs	Other tillage tools
1982----------	1,917	11	2,856	***
1983----------	2,276	10	3,210	***
1984----------	2,887	4	1/ 3,568	1/ ***

1/ Data for January-September only.

Not all producers may have reported to ABIMAQ, hence the difference between the two sets of data. Brazilian disc production grew from 1982 to 1984 by 51 percent, according to the ABIMAQ data and by more than 25 percent according to the producers' data. Brazilian production of other tillage tools grew from 1982 to September 1984 by * * * percent.

According to ABIMAQ, the increases in production in the period are due primarily to the counter cyclical nature of the tillage tools business. During economic downturns (as experienced by Brazil from 1981 to 1984), farmers tended to repair existing equipment instead of making new purchases. Tillage tools, since they are basically replacement parts, benefited from this tendency. Reportedly, sales of new tillage implements (e.g., disc harrows) grew only modestly during the same period.

In the preliminary investigation, ABIMAQ stated that idle capacity in the tillage tools sector was then around 40 percent, although production was expected to grow because of "recently increased overall demand for agricultural equipment." It was clarified during the final investigation that ABIMAQ's previous estimate of 40 percent was for that industry that produces both tillage tools and complete implements. Virtually all of the idle capacity exists in the implement sector; the tillage tools component of the industry reportedly is operating at close to full capacity. 3/

1/ State Department telegram No. 296827, Oct. 22, 1984.

2/ Data from Marchesan, Baldan, Semeato and Metisa, provided to the Commission through counsel for the respondents. Shares of 1984 production of discs were Marchesan-* * * percent, Baldan-* * * percent, Semeato-* * * percent, Metisa-* * * percent. Other tillage tools shares of 1984 production were Marchesan-* * * percent, Baldan-* * * percent, Metisa-* * * percent.

3/ State Department telegram No. 212377, Sept. 7, 1985.

Given the counter cyclical nature of the tillage tool industry, continued strong demand very much depends on the overall state of the agricultural economy. Brazilian industry sources believe that, in the event of a sustained economic upturn, many buyers will turn away from tillage tools in favor of new implements. Flat domestic demand, coupled with uncertainty as to future access to the big U.S. market, has discouraged new investment.

Brazilian industry sources project lower sales to the U.S. market due to the carryover of a considerable amount of inventory from 1984 by many U.S. retailers, as well as reluctance on the part of U.S. purchasers to make long-term commitments during the ongoing Commission investigation. These are viewed as short-term problems and if the Commission portion of the countervailing duty investigation is "resolved satisfactorily," 1/ Brazilian observers expect the industry to resume its overseas sales expansion in 1986. The U.S. market is the predominant (if not, along with Canada, almost the exclusive) destination of future exports in the sales plans of Brazilian exporters because North America currently is the only market big enough, accessible enough, and prosperous enough to absorb a major percentage of Brazil's export production. 2/

The following tabulation shows data, obtained from the Brazilian exporters 3/ and provided to the Commission by counsel for the respondents, on Brazilian capacity and production for both discs and other tillage tools (in millions of pounds):

Period	Capacity	Production	Utilization (Percent)
1982-------------	68	63	93
1983-------------	90	71	79
1984-------------	112	103	92
January-June--			
1984-----------	53	47	89
1985-----------	1/ 51	42	84

1/ One producer reduced reported capacity due to a strike.

Aggregate Brazilian productive capacity to produce discs and other tillage tools increased from 1982 to 1983 by 32 percent and further increased by 24 percent in 1984. The actual production of discs and other tillage tools increased by 13 percent in 1983 and by 45 percent in 1984. Production decreased by 7 percent in January-June 1985 compared with the corresponding period in 1984.

Baldan reported to counsel for the respondents that * * * Marchesan reported that * * *. The third exporter, Semeato * * *.

1/ Ibid.
2/ Analysis of the economist at the U.S. consulate in Sao Paolo.
3/ Marchesan, Baldan, and Semeato.

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Consideration of the Causal Relationship Between Subsidized Imports and the Alleged Material Injury

U.S. imports

The subject products are not distinguished from other farm implements and tools in the TSUS. Therefore, no separate official import statistics exist for these products. The following alternative data are available on imports of the subject tillage tools.

Data on discs as reported by U.S. importers of discs.--The Commission sent questionnaires to all consignees of discs imported from all sources. Table 13 shows the U.S. imports of discs from Brazil and from other sources as reported by respondents to the Commission's questionnaires.

U.S. imports of discs from Brazil increased sharply from * * * units to * * * units from 1982 to 1983. In 1984, such imports further increased to * * * million units, or by * * * percent, then decreased in January-June 1985 by * * * percent compared with January-June 1984. The unit values of * * *. Unit values, however, should not be used for price comparisons, because intermediaries' margins are added before the sales prices for discs are set.

Data reported by U.S. importers of other tillage tools.--U.S. imports of other tillage tools are shown in table 14. 1/ The responses account for at least 80 percent of imports from Brazil. Imports of other tillage tools from Brazil increased from zero in 1982 to * * * units valued at * * * million in 1983, and further increased to * * * units valued at * * * million in 1984, or by * * * percent. Imports in January-June 1985 increased by * * * percent in terms of units, but decreased by * * * percent in terms of value compared with those in the coresponding period of 1984. Unit values reported by U.S. importers are also shown in table 14.

Exports of other countries not subject to this investigation.-- To calculate total imports from all sources, the Commission requested data through the respective U.S. embassies from the chief exporters of the subject tillage tools to the United States: Ralph McKay, Ltd., in Australia; McKay of Canada; Tyzack, Ltd., and S & J Kitchin, Ltd., in the United Kingdom; and Forge de Nieaux in France. These companies willingly cooperated and have provided data concerning their exports to the United States. On the basis of data from the Journal of Commerce, imports from all other countries combined are approximated. Such imports accounted for about 2 percent of total imports in 1982-1983, 4 percent in 1984, and 3 percent in 1985.

1/ * * *.

Table 13.--Discs: U.S. imports, by principal sources, 1982-84, January-June 1984, and January-June 1985 1/

Source	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 units)				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (per unit) 2/				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others	***	***	***	***	***
Average	***	***	***	***	***

1/ Responding firms accounted for approximately 90 percent of imports from Brazil, 100 percent from Canada, about 30 percent from the United Kingdom, 30 percent from France, and about 75 percent from Australia.

2/ Some of the unit values that were computed from small volumes of imports should be viewed with caution as they may be skewed by rounding or may be unusual merchandise or special shipments with unusually low or high unit values.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 14--Other tillage tools: U.S. imports, by principal sources, 1982-84, January-June 1984, and January-June 1985 1/

Source	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 units)				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
Australia	***	***	***	***	***
others	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
Australia	***	***	***	***	***
Others	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (dollars per unit) 2/				
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
Australia	***	***	***	***	***
Others	***	***	***	***	***
Average	***	***	***	***	***

1/ The responding firms accounted for about 80 percent of imports from Brazil and the United Kingdom, all of the imports from Australia, and about *** percent of the imports from Canada.

2/ Some of the unit values that were computed from small volumes of imports should be viewed with caution as they may be skewed by rounding or may be unusual merchandise or special shipments with unusually low or high unit values.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The import data used in the calculation of consumption and market penetration are combined from the above three sources. For imports from Brazil, the U.S. importers' questionnaire responses are used; for imports from the other major exporting countries, both the importers questionnaires and the exporting companies' responses are used. Table 15 presents combined data from the various sources on imports of the subject tillage tools.

Table 15. --Tillage tools: U.S. imports, by principal sources, 1982-84, January-June 1984, and January-June 1985.

Item and source	1982	1983	1984	January-June-- 1984	1985
	Quantity (1,000 units)				
Discs:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***
Other tillage tools:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars) 1/				
Discs:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***
Other tillage tools:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***

See footnotes at end of table.

Table 15.--Tillage tools: U.S. imports, by principal sources, 1982-84, January-June 1984, and January-June 1985--Continued

Item	1982	1983	1984	January-June--	
				1984	1985
	Share of total value (percent)				
Discs:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***
Other tillage tools:					
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
United Kingdom	***	***	***	***	***
France	***	***	***	***	***
Australia	***	***	***	***	***
All others 2/	***	***	***	***	***
Total	***	***	***	***	***

1/ Not available.

2/ Estimated on the basis of Journal of Commerce data, as follows: 2 percent of total imports in 1982-83, 4 percent in 1984, 3 percent in 1985.

Source: Imports from Brazil, compiled from U.S. importers' questionnaires; imports from Canada, compiled from State Dept. telegrams Nos. 221438 and 052131, and U.S. importers' questionnaires; imports from the United Kingdom, compiled from questionnaires and State Dept. telegrams Nos. 131830 and 231722; imports from Australia - Ralph McKay telex dated Sept. 6, 1985; imports from France, compiled from State Dept. telegrams Nos. 220049 and 061321.

Total imports of discs from all sources were * * * million in 1982, increasing to * * * million in 1983, or by 56 percent, and further increasing sharply to * * * million, or by 70 percent, in 1984. In January-June 1985 such imports decreased by 20 percent compared with the corresponding period in 1984.

Table 15 also shows the share of imports from the major sources. In 1983, Brazil became * * * supplier of discs to the U.S. market. For other tillage tools * * *.

Quarterly imports of discs and other tillage tools from Brazil are shown in table 16. Imports of discs in January-March 1985 were *** percent higher than those in the corresponding period of 1984; the same imports in the second quarter of 1985, however, were substantially lower than those in the second quarter of 1984 (by *** percent).

Table 16. Tillage tools: U.S. imports from Brazil, by quarters, January 1984-June 1985

Item	January-March 1984	April-June 1984	July-September 1984	October-December 1984	January-March 1985	April-June 1985
	Quantity (1,000 units)					
Discs	***	***	***	***	***	***
Other tillage tools	***	***	***	***	***	***
	Value (1,000 dollars)					
Discs	***	***	***	***	***	***
Other tillage tools	***	***	***	***	***	***
	Unit value (per unit)					
Discs	***	***	***	***	***	***
Other tillage tools	***	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Imports of other tillage tools in the first quarter of 1985 were *** percent higher in terms of units, but *** percent lower in terms of value compared with those in the corresponding quarter of 1984; the same imports in the second quarter of 1985 were the same as those in the second quarter of 1984 in terms of units, and were *** percent lower in terms of value. Unit values of Brazilian imports are also shown in table 16.

Market penetration

Market penetration of imports from Brazil and from all other sources are shown in table 17.

Table 17. --Tillage tools: Market penetration (by value) of imports from Brazil and from all other sources, 1982-84, January-June 1984, and January-June 1985.

(In percent)

Market penetration of--	1982	1983	1984	January-June--	
				1984	1985
Discs from--					
Brazil	1.3	10.4	17.2	15.3	17.2
All other countries	***	***	***	***	***
Total	***	***	***	***	***
Other tillage tools from--					
Brazil	-	2.4	2.7	3.1	3.2
All other countries	***	***	***	***	***
Total	***	***	***	***	***

Source: Calculated from data contained in tables 2 and 15.

Market penetration of discs (in terms of value of imports) from all sources was * * * percent in 1982, increased to * * * percent in 1983, and further increased to * * * percent in 1984. Such penetration was * * * percent in January-June 1984 compared with * * * percent in January-June 1985. Market penetration of discs (in terms of value of imports) from Brazil grew from 1.3 percent in 1982 to 10.4 percent in 1983, and further grew to 17.2 percent in 1984. Market penetration of discs (in terms of value of imports) from all sources other than Brazil also increased during 1982-84, but at a slower rate than that by imports from Brazil; such penetration, however, increased by 3.7 percentage points in January-June 1985, from 1984, unlike that of imports from Brazil, which remained at the 1984 level in January-June 1985.

Market penetration of other tillage tools (in terms of value of imports) from all sources increased from * * * percent in 1982 to * * * percent in 1984, and fell slightly to * * * percent in January-June 1985. Such penetration by imports from Brazil was zero in 1982, 2.4 percent in 1983, 2.7 percent in 1984 and further increased to 3.2 percent in January-June 1985 compared with 3.1 percent in January-June 1984. Market penetration by imports from all sources other than Brazil increased faster than imports from Brazil, but unlike Brazilian penetration, it decreased in January-June 1985.

Prices

Farmers who use tillage tools reportedly have been very price conscious during 1980-85, a period of instability in the agricultural economy. Demand for tillage tools is therefore believed by the parties to the investigation to be price sensitive. 1/

Some producers and importers reported that the PIK program in 1983 and the "no till" or "minimum till" farming methods have negatively affected the demand for tillage tools. A spokesman for * * * disagrees and reports that he did not notice a decline in his sales during the PIK program because farmers had to use the tools to keep their land ready for production. This source also believes that the trend toward reduced tillage will not change the tillage tool business substantially. According to * * * spokesman, the theory has been around for approximately 12 years and, although its popularity returns every 3 years or so, there have not been major long term changes in the market for tillage tools. The primary tillage instrument is the moldboard plow, which completely turns over the soil and buries old crop biomass. If farmers switch to reduced tillage methods, their use of discs and sweeps, which simply stir up and level the soil, would actually increase. The "no-till" method requires substantial use of chemicals. Generally, the farmer who practices these methods will have more insects and weeds, and will be more susceptible to changes in the cost of chemicals. 2/

Producers and importers generally publish price lists and quote their prices on an f.o.b. basis. Discount policies vary, but quantity discounts, on either a cumulative or noncumulative basis, are the most typical discounts offered. These usually take the form of discounts from the price or prepaid freight.

Demand is generally seasonal, with distributors ordering in the fall and dealers ordering in the winter. Shipments to these customers generally lag several months behind the orders and are typically completed by March of the following year before spring planting begins. OEM's generally place their largest orders in the late summer/early fall, with deliveries spaced out during the fall, but often place heavy orders again in January for spaced deliveries through March. Most producers also offer seasonal discounts, called buying programs, in the fall (and sometimes also in the spring) for orders and payments by certain dates. These buying programs have existed since the mid-1970's, when groups of farm stores began requesting producers' to explain their prices for the coming season. "Preseason" orders by OEM's or distributors that are placed before December or January generally receive greater discounts, and most purchases by OEM's or distributors are during this period. During the spring and early summer, sales to distributors are fill-in.

U.S. tillage tool producers and importers of Brazilian tillage tools compete in both the OEM and replacement markets. Prices charged appear to be more a function of the quantity sold rather than whether a sale is to the OEM or replacement market. For example, * * *. Because a sale is made to the OEM

1/ See, for example, questionnaire of * * *. Also from telephone conversations with representatives of * * *.

2/ * * *.

66.

or replacement market does not predictably determine prices charged for similar quantities, the price data for tillage tools are aggregated. The policy of the largest U.S. disc producer, Ingersoll, is to sell directly to OEM customers only, and Ingersoll competes directly with imports in this market. To the extent that OEM's also compete in the replacement market through their dealer networks, Ingersoll competes indirectly with imports. Thus, price data for discs are also disaggregated into sales by Ingersoll and sales by Osmundson.

U.S. producers and importers of tillage tools were asked to report sales prices for the five common tillage tool specifications listed below:

Disc blade, 16" diameter, 0.118" thick, 11 gauge, plain;
Disc blade, 22" diameter, 0.177" thick, 7 gauge, plain;
Field cultivator sweep, 9", 1/4" thick;
Chisel plow sweep, 16", 1/4" thick; and
"Danish" cultivator sweep, 4", 3/16" thick.

The two U.S. producers of discs, Ingersoll and Osmundson, reported price data for the disc specifications for all quarters as requested. Osmundson also reported price data on its sales of Brazilian discs * * *. Wiese and Herschel, producers of other tillage tools, reported some Brazilian price data on discs but not necessarily for each product or each period, as did three importers of Brazilian tillage tools--* * *. Pricing data for the sweep specifications were received from six U.S. producers of tillage tools--Adams, Empire, Osmundson, Nichols, Herschel, and Beall-Nixdorf--and from three importers of the subject products from Brazil - * * * but not necessarily for each product or period. In addition, Wiese and Osmundson also provided some pricing data on their sales of Brazilian sweeps. Because producers generally quote prices on an f.o.b. basis and the customer often makes the freight arrangements, most producers and importers could only report f.o.b. selling prices. Thus, weighted-average f.o.b. prices are used to analyze trends in prices as well as for comparing levels of prices for the domestically produced and Brazilian tillage tools.

Price trends.--From January-March 1983 to April-June 1985, U.S. producers' weighted-average disc prices fell by * * * percent for the 16-inch disc blade, but rose by * * * percent for the 22-inch disc blade (tables 18 and 19). Producers' prices for both the 16-inch disc blade and the 22-inch disc blade fell during * * *, by * * * percent, * * *, rose during * * * 1984 by * * * percent, and, from * * * through * * * fluctuated downward to * * * percent below price levels experienced during * * *. * * *.

1/ * * *.
2/ * * *.

Table 18.--Discs, 16-inches: Selling prices of Ingersoll and Osmundson, and U.S. producers' and importers' weighted-average selling prices, 1/ and margins of underselling, January 1983-June 1985 2/

(Per unit)

Period	Ingersoll	Osmundson	U.S. producers' average	Brazilian price	Absolute margin of underselling	Relative margin of underselling
						Percent
1983:						
January-March	***	***	***	***	***	37.2
April-June	***	***	***	***	***	24.8
July-September	***	***	***	***	***	26.8
October-December	***	***	***	***	***	20.1
1984:						
January-March	***	***	***	***	***	22.4
April-June	***	***	***	***	***	35.6
July-September	***	***	***	***	***	12.9
October-December	***	***	***	***	***	27.5
1985:						
January-March	***	***	***	***	***	9.8
April-June	***	***	***	***	***	25.8

1/ The weighted-average domestic producers' prices were calculated based on Osmundson's and Ingersoll's estimates of their annual sales of this product in units for 1983, 1984, and year to date (YTD) 1985.

2/ The full specification is agricultural disc blades, 16-inches, 0.118-inch thick, 11 gauge, plain.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 19.--Discs, 22-inches: Selling prices of Ingersoll and Osmundson, and U.S. producers' and importers' weighted-average selling prices, 1/ and margins of underselling, January 1983-June 1985 2/

(Per unit)

Period	Ingersoll	Osmundson	U.S. producers' average	Brazilian price	Absolute margin of underselling	Relative margin of underselling
						Percent
1983:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1984:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1985:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***

1/ The weighted-average domestic producers' prices were calculated based on Osmundson's and Ingersoll's estimates of their annual sales of this product in units for 1983, 1984, and YTD 1985.

2/ The full specification is agricultural disc blades, 22-inches, 0.177-inch thick, 7 gauge, plain.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

From January-March 1983 to April-June 1985, producers' weighted-average prices for sweeps fluctuated, but rose by 5.7 percent for the field cultivator sweep, 1/ and by 3.7 percent for the chisel plow sweep (tables 20 and 21). 2/ Prices fell during the same period by * * *, or * * * percent for the Danish cultivator sweep (table 22). Producers' weighted-average prices for the field cultivator and chisel plow sweeps followed similar trends, with prices reaching their lowest point during January-March 1984, fluctuating markedly during the second and third quarters of 1984, and then generally rising from October-December 1984 to April-June 1985.

Prices for Brazilian disc blades increased by * * * percent for the 16-inch specification and by * * * percent for the 22-inch specification during the period from January-March 1983 to April-June 1985 (tables 18 and 19). 3/ Prices for the imported field cultivator sweeps declined by 35.0 percent during this period, and prices for the chisel plow sweep declined by only 2.4 percent because of a price increase during April-June 1985 (tables 20 and 21). Brazilian disc blade prices generally increased during 1983 by * * * percent for the 16-inch specification and by * * * percent for the 22-inch specification. Prices for the 16-inch specification then declined during the first two quarters of 1984 by * * * percent, before fluctuating upward by * * * percent through April-June 1985. Prices for the Brazilian 22-inch disc blade declined continuously from January-March 1984 through January-March 1985, or by * * * percent, but increased by * * *. Prices for the Brazilian field cultivator and chisel plow sweeps fell during 1983 by * * * and * * * percent, respectively. Reported prices for the last three or four quarters show prices of these Brazilian tillage tools generally increasing somewhat. Limited price data reported for Danish sweeps imported from Brazil prevent any trend analysis for this specification (table 22).

1/ * * *.

2/ * * *.

3/ * * *.

Table 20.--Field cultivator sweeps, 9-inches: U.S.-producers' and Brazilian weighted-average selling prices, and margins of underselling, January 1983-June 1985 1/

(Per unit)

Period	U.S. producers' price	Brazilian price	Absolute margin of (overselling) underselling	Relative margin of (overselling) underselling
				Percent
1983:				
January-March	***	***	***	(26.5)
April-June	***	***	***	11.1
July-September	***	***	***	.9
October-December	***	***	***	(5.6)
1984:				
January-March	***	***	***	2.8
April-June	***	***	***	10.4
July-September	***	***	***	17.8
October-December	***	***	***	29.8
1985:				
January-March	***	***	***	21.9
April-June	***	***	***	21.9

1/ The full specification is Field cultivator sweeps, 9-inches, 0.25-inches thick.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

71.

Table 21.--Chisel plow sweeps, 16-inches: U.S.-producers' and Brazilian weighted-average selling prices, and margins of underselling, January 1983-June 1985 1/

(Per unit)

Period	U.S. producers' price	Brazilian price	Absolute margin of (overselling) underselling	Relative margin of (overselling) underselling
				Percent
1983:				
January-March-----------	***	***	***	9.0
April-June--------------	***	***	***	(1.9)
July-September----------	***	***	***	23.2
October-December--------	***	***	***	20.4
1984:				
January-March-----------	***	***	***	5.3
April-June--------------	***	***	***	30.6
July-September----------	***	***	***	19.8
October-December--------	***	***	***	20.5
1985:				
January-March-----------	***	***	***	22.2
April-June--------------	***	***	***	14.1

1/ The full specification is Chisel plow sweeps, 16-inches, 0.25-inches thick.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 22.--Danish cultivator sweeps, 4-inches: U.S.-producers' and Brazilian weighted-average selling prices, and margins of underselling, January 1983-June 1985 1/

(Per unit)

Period	U.S. producers' price	Brazilian price	Absolute margin of underselling	Relative margin of underselling
				Percent
1983:				
January-March	***	***	***	3/
April-June	***	***	***	3/
July-September	***	***	***	3/
October-December	***	***	***	3/
1984:				
January-March	***	***	***	3/
April-June	***	***	***	3/
July-September	***	***	***	3/
October-December	***	***	***	3/
1985:				
January-March	***	***	***	5.9
April-June	***	***	***	16.2

1/ The full specification is "Danish" cultivator sweeps, 9-inch, 3/16-inch thick.

2/ No prices reported.

3/ Cannot be calculated.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Price comparisons.--The reported price data resulted in 42 quarterly selling price comparisons between domestically produced tillage tools and Brazilian tillage tools sold by importers and U.S. producers (tables 18, 19, 20, 21, and 22). Thirty-nine of these comparisons showed underselling by suppliers of the Brazilian tillage tools, with share margins of underselling for the five specifications ranging from 2.5 to 37.2 percent and averaging 16.3 percent. Brazilian disc blades were lower priced than domestic blades in all 20 of the comparisons involving the 16-inch and 22-inch specifications. Margins of underselling were the highest for the 16-inch specification, with margins of underselling ranging from 9.8 percent to 37.2 percent, and average underselling of * * * per unit, or 24.3 percent below domestic producers' prices. Margins of underselling for the higher priced, 22-inch disc blade averaged * * * per unit, or * * * percent of domestic producers' prices.

The three instances in which Brazilian tillage tools were more expensive than U.S.-produced tillage tools occurred in the field cultivator and chisel plow sweep categories during 1983. Eight out of ten price comparisons, involving the field cultivator sweep, showed underselling by the Brazilian product, with average underselling of * * * per unit, or 14.6 percent below domestic producers' prices. Similarly, in 9 of 10 price comparisons for the chisel plow sweep, the Brazilian sweep undersold the U.S.-produced sweep by an average of * * * per unit, or by 18.3 percent of domestic producers' prices. For the field cultivator sweep, margins of underselling by the subject Brazilian product have generally increased from January-March 1983 to April-June 1985. Two price comparisons involving sales of the "Danish" sweep during the first two quarters of 1985 showed average underselling of * * * per unit, or 11.1 percent below domestic producers' prices.

Purchasers' prices.--The Commission requested purchasers of agricultural tillage tools to report, for their largest purchase each quarter from July-September 1984 to April-June 1985, the f.o.b. and delivered purchase prices and quantities purchased of the five selected tillage tool products produced in the United States and Brazil, as well as for those produced in Australia, Canada, France, and the United Kingdom. Because most of the 33 purchasers reporting usable price data did so for a few quarters and a few products only, the price data cannot be used to analyze the trends in purchasers' prices. The price data were disaggregated into three major groups of purchasers--OEM's, wholesaler/distributors, and "other purchasers" closer to the retail level of distribution such as dealers, parts houses, and chain-stores. These data are instructive for comparing prices in different distribution channels as well as for comparing prices of domestically produced tillage tools with those produced in Brazil and the other countries. 1/ Although the f.o.b. prices reported by OEM's for a certain domestic product and quarter were often less than those reported by wholesalers, in many other instances the OEM's price was higher. In a few instances, the purchasers' prices reported by "other purchasers" such as dealers were actually lower than an OEM price reported for the particular product and period.

Purchasers' f.o.b. prices paid for Brazilian tillage tools were lower than the comparable quarterly prices paid by purchasers of domestic tillage

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1/ Because the reporting purchasers represent a very small proportion of all purchasers of tillage tools, the following analysis of the price data may or may not be truly representative of the U.S. market for tillage tools.

tools in almost every instance. 1/ Where delivered prices were reported for purchases of Brazilian tillage tools, they were also generally lower than the f.o.b prices for domestic products. Purchasers' prices reported for Australian and Canadian tillage tools were generally much higher than those from the United Kingdom or France. F.o.b. purchase prices for Australian and Canadian tillage tools were sometimes lower and sometimes higher than those for domestically produced tillage tools. Reported prices for the United Kingdom and French disc blades were lower on an f.o.b. basis than both the domestic and Brazilian products in every comparison.

Shown in the following tabulation below are purchasers' prices and quantities purchased, along with the location of the purchaser for 22-inch disc blades purchased by OEM's, wholesaler/distributors, and "other purchasers" during January-March 1985:

Origin	State	Quantity (units)	F.o.b. price	Delivered price
OEM's:				
United States	***	***	***	***
	***	***	***	***
Brazil	***	***	***	***
	***	***	***	***
Canada	***	***	***	***
	***	***	***	***
Wholesaler/ distributors:				
United States	***	***	***	***
Brazil	***	***	***	***
	***	***	***	***
France	***	***	***	***
	***	***	***	***
Australia	***	***	***	***
United Kingdom	***	***	***	***

Origin	State	Quantity (units)	F.o.b. price	Delivered price
"Other purchasers":				
United States	***	***	***	***
Brazil	***	***	***	***
	***	***	***	***
Australia	***	***	***	***

1/ No data provided.

1/ A large wholesaler/distributor * * * paid the same price for domestic and Brazilian 22-inch disc blades during * * *, and during * * *, respectively, he paid more per unit on an f.o.b. basis for Brazilian chisel plow sweeps and Brazilian "Danish" sweeps than another purchaser was paying in those periods for the subject domestic products.

As shown in the above tabulation, a wholesaler/distributor in * * * reported the prices it paid for both the domestically produced and the Brazilian 22-inch disc blade during January-March 1985. The f.o.b price that was paid for the Brazilian disc was * * * or 4 percent less than the price for the domestic disc. Similarly, during this period, an "other purchaser" (dealer) in * * * paid * * * or 12 percent less, for a Brazilian disc on a delivered price basis than it paid for a domestic blade. Regarding the prices of other imported discs, a wholesaler/distributor in * * * that bought * * * Brazilian discs during January-March 1985 for * * * per unit also purchased * * * French discs during that period for * * * per unit, which is 22 percent lower than the price paid for * * * Brazilian discs.

The following tabulation provides an example of the purchasers' price data reported by OEM's, wholesaler/distributors, and "other purchasers" for their purchases of "other tillage tools," specifically 16-inch chisel plow sweeps purchased during July-September 1984:

Origin	State	Quantity (units)	F.o.b. price	Delivered price
OEM's				
United States	***	***	***	***
	***	***	***	***

Origin	State	Quantity (units)	F.o.b. price	Delivered price
Wholesaler/ distributors:				
United States	***	***	***	***
	***	***	***	***
	***	***	***	***
	***	***	***	***
Brazil	***	***	***	***
	***	***	***	***
"Other purchasers"				
United States	***	***	***	***
	***	***	***	***

1/ Not available.

The above data show that a wholesaler/distributor in * * * paid * * * 26 percent less for the Brazilian chisel plow sweeps it purchased during July-September 1984 than it paid for domestically produced chisel plow sweeps during that period. During July-September 1984 a wholesaler/distributor in * * * paid * * * per unit delivered for Brazilian chisel plow sweeps, and a wholesaler/distributor in * * * paid * * * per unit delivered for domestically produced sweeps. The Brazilian chisel plow sweep cost * * * 12 percent less than the domestic sweep. Neither OEM's nor "other purchasers" reported any Brazilian pricing data for any of the three sweep categories.

Terms.--Both U.S. producers and importers were asked to report the terms associated with each quarterly sales transaction. Of the U.S. producers, * * * reported that it gave a * * * percent discount for payment within * * * days and required net payment in * * * days; * * * reported net payment in * * * days; and * * * reported net payment in * * * days. 1/

Importers of Brazilian tillage tools also reported the terms of sale to their customers, which typically ranged from net 30 days to net 180 days and often varied by customer. For example, Agridisc's terms since October 1983 were generally * * * days for disc blade sales and * * * days for sweep sales, and * * * terms for its sales of Brazilian tillage tools were net * * * days, * * *. * * * terms were highly variable. Three of * * * reported quarterly sales to * * *, which occurred during January-March 1985, had terms of * * * .

Qualitative considerations.--Purchasers were asked to state whether tillage tools from Brazil and from some other sources--Australia, Canada, France and the United Kingdom--are (1) better than, (2) equivalent to, or (3) not as good as the subject domestic products. Regarding discs from Brazil, only one purchaser reported that they are better than domestic discs, 15 stated that Brazilian and domestic discs are of similar quality, and 14 reported that they are of lower quality than domestic discs. Several purchasers reportedly would not purchase Brazilian discs at any price differential. The reasons stated for the above answers were so contradictory that they may indicate considerable quality differences between discs from the various Brazilian manufacturers. Discs imported from Australia and Canada were generally perceived as being of similar quality to U.S.-produced discs, and English and French discs were perceived as being of either similar or lower quality than U.S.-produced discs.

Fewer purchasers reported their opinions on the quality of imported other tillage tools, and several explained that they have had no experience with these products. Regarding other tillage tools from Brazil, one purchaser reported that they are better than U.S.-produced products, three reported that Brazilian and domestic other tillage tools are of similar quality, and six reported that Brazilian other tillage tools are not as good as domestic products. Other tillage tools from Canada generally received the best ratings among purchasers.

In addition to these considerations of material quality, producers, importers, and purchasers generally agree that the "lead time," or the time period between when orders are placed and when they are delivered, is longer

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1/ Importers also reported the terms for their purchases of Brazilian tillage tools. In 1983, these terms ***. In 1984, these terms ***. ***'s terms from *** changed markedly during 1984, ***. In 1985, importers' payment terms ***. One importer, *** reported 1985 purchase terms of *** days at *** percent interest ***, *** its purchase terms in 1984 were ***.

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for Brazilian tillage tools than for domestically produced tillage tools. Domestically produced tillage tools are usually shipped 1 month, or, at the most, 2 months following an order; the lead time for Brazilian tillage tools typically ranges from 3 to 4 months, and may be longer. Finally, several industry sources reported that imported tillage tools are usually purchased in container-load quantities, either because that is the policy of the supplier, or in order to minimize per unit freight costs from the port of entry.

Transportation costs.--Both producers and importers were asked to report the f.o.b. and delivered selling prices on each transaction, so that transportation costs could be calculated. Because transportation costs are generally paid by the customer and the customer often handles the shipping arrangements, few producers and importers reported delivered prices. * * * and * * * were the only two producers to report delivered prices on their transactions. From January-March 1983 to April-June 1985, * * * transportation costs as a share of the delivered selling price ranged from * * * percent. * * * U.S.-inland freight costs ranged from * * *. One importer, * * *, reported that transportation costs were approximately * * * percent of delivery price. Most of the reporting producers of agricultural tillage tools stated that U.S. inland transportation costs are a major factor in their competition with both domestic producers and Brazilian tillage tool suppliers. However, * * *, and the major reporting importers, * * *, reported that transportation costs did not play a major role in this competition.

U.S. inland transportation costs as a share of the delivered price paid by purchasers were calculated on the basis of the difference between their reported delivered and f.o.b. prices on purchases of the above five products during July 1984-June 1985. For purchases of U.S.-produced tillage tools transportation costs generally ranged from 2.9 to 8.4 percent for OEM's, from 1.4 to 5.2 percent for wholesaler/distributors, and from 1.4 to 5.7 percent for "other purchasers." For purchases of Brazilian tillage tools, purchasers generally reported lower transportation costs that ranged from 1.2 to 3.7 percent for OEM's, from 1.9 to 5.9 percent for wholesaler/distributors, and from 1.3 to 5.7 percent for "other purchasers." Purchasers were divided on the issue of whether U.S. inland transportation costs are a major factor in their sourcing decisions, with 57 percent of purchasers reporting that they are not a major factor and 43 percent reporting that they are a major factor.

Exchange rates.--Table 23 presents indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro, and indexes of producer prices in the United States and Brazil, by quarters, from January-March 1982 (the base period) through March-June 1985. During this period, the cruzeiro depreciated steadily, declining 97 percent against the dollar since the base period. However, because of the high inflation rate in Brazil, the nominal exchange rate index does not explain changes in the relative competitiveness of Brazilian tillage tools in the U.S. market. Adjusted for inflation, the real value of the cruzeiro relative to the dollar fluctuated considerably, rising by almost 4 percent in April-June 1982 and then declining through April-June 1983, or by nearly 22 percent since the base period. In July-September 1983, the real value of the cruzeiro began to increase relative to the dollar. By January-March 1985, the cruzeiro had fallen by only 13 percent in real terms since the base period. However, during April-June 1985, the real value of the cruzeiro reversed its upward trend because the cruzeiro depreciated relative to the dollar by more than the Brazilian rate of

Table 23.--Indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro and indexes of producer prices in the United States and Brazil, 1/ by quarters, January 1982-June 1985

(January-March 1982=100)

Period	Nominal exchange rate index	Real exchange rate index	United States producer price index	Brazilian producer price index
1982:				
January-March	100.0	100.0	100.0	100.0
April-June	86.1	103.8	100.1	120.7
July-September	72.7	103.3	100.5	142.8
October-December	59.9	98.1	100.6	165.0
1983:				
January-March	42.2	86.4	100.7	205.9
April-June	29.0	78.1	101.0	272.3
July-September	21.6	82.6	102.0	390.0
October-December	15.9	85.2	102.5	549.7
1984:				
January-March	12.1	84.5	103.6	724.6
April-June	9.1	84.0	104.3	962.6
July-September	6.9	84.9	104.1	1284.4
October-December	5.1	87.3	103.8	1795.0
1985:				
January-March	3.7	87.5	103.6	2473.8
April-June	2.6	80.4	103.7	3163.7

1/ Based on exchange rates expressed in U.S. dollars per Brazilian cruzeiros.

Source: International Monetary Fund, International Financial Statistics.

inflation. Thus, as of April-June 1985, the real value of the cruzeiro was about 20 percent lower in real terms, than it was in the base period.

Lost sales

Lost sales allegations by four U.S. producers were included in the petition and in U.S. producers' questionnaires in the preliminary investigation. Allegations by two producers, * * *, generally related to discs and involved nine individual purchasers. Allegations by the two other producers, * * *, related to sweeps and other types of tillage tools and involved 17 individual purchasers. Following are summaries of the information obtained from the purchasers who were contacted during the preliminary investigation.

1/ Transcript of staff conference, October 29, 1984, pp. 82-83.

Purchaser 1.--* * *: This lost sale allegation was made by * * *, which reported that * * *'s share of * * *'s total tillage equipment sales declined from * * * percent in 1982 to * * * percent in January-September 1984. * * * is a manufacturer of agricultural tillage equipment; * * * returned the Commission's questionnaire and reported its purchases of both U.S.-produced and Brazilian made discs and other tillage tools. This information is provided in the following tabulation (in pieces):

* * * * * * *.

* * * reported that its major reason for purchasing the imported product was that it cannot purchase the products from other U.S. producers * * *. * * * also reported that it cannot obtain discs from Ingersoll, and had to rely on smaller disc producers, which were not always reliable sources. * * *, therefore, presently imports * * * discs from Brazil and competes primarily in the replacement market.

Purchaser 2.--* * *: This lost sale allegation was made by * * * and involves the purchase of * * * Brazilian discs in * * * at prices allegedly * * * percent lower than * * *'s prices. This purchaser reported that it is a producer of agricultural equipment (OEM) and purchases discs from both * * * and * * * (Brazil). About 3 years ago, * * * purchased its disc requirements from * * *, Crucible, and * * *. Because Crucible stopped making discs, and * * * was considered unreliable, * * * purchased discs from * * * to have an alternative source to * * *. Currently, about 50 percent of * * *'s total requirements are met by Brazilian discs, although it did not report the quantity of its purchases. * * * also reported that Brazilian discs are priced about 20 to 25 percent lower than domestic discs are for diameters over 16 inches. Brazilian smaller diameter discs are not as price competitive, according to * * *.

This purchaser also competes in the replacement market, although only about * * * percent of its disc purchases are sold in this market. * * * reported that one reason it purchased the lower priced Brazilian discs was to expand its replacement market sales. However, because of intense replacement market competition from French and British discs, this purchaser reported that it has not been successful in the replacement disc market.

* * * reported that initially it received * * * payment terms at * * * percent interest rates, but currently terms are net payment in * * * days.

Purchaser 3.--* * *: Lost sale allegations were made by * * * involved the purchase of * * * Brazilian discs in * * * priced * * * percent below * * *'s price. 1/ This purchaser is a manufacturer of agricultural equipment (OEM) which it sells * * *. It has purchased discs from Ingersoll, Osmundson, Farmo (Brazil), Agridisc (Brazil), International Harvester (Canada), and Kitchen (United Kingdom). In 1983, * * * reported that it purchased about 50 percent of its disc requirements from Brazil. It has reduced its purchases of Brazilian discs in 1984 because it can get a better disc at a slightly higher price from Canada and the United Kingdom.

1/ * * * was not specific with regard to quantity and price of the alleged lost sale.

* * * reported that its primary reason for buying the Brazilian disc was price. Current prices for a 22-inch notched disc are $14.73 from * * * and $9.67 from * * *, representing a 34 percent price differential. * * * reported that the Brazilian disc is lower quality, but that the price differential more than compensates for this. * * * had formerly purchased some Brazilian discs from * * *, but has discontinued purchasing from * * * because it believed * * * was soliciting * * *'s own customers.

Purchaser 4.- * * *: This lost sale allegation was made by * * * and involved the purchase of * * * Brazilian discs in * * * . This purchaser reported that it does buy Brazilian discs, but that the Brazilian product accounts for only about 25 percent of their total disc requirements. * * * purchases Brazilian discs because Crucible had formerly been their * * * supplier, and when Crucible left the disc market * * * did not want to rely solely on * * *. It currently purchases more discs from * * * than it did before the exit of Crucible and is annoyed that * * * is complaining. * * * also reported that the Brazilian prices are lower, but that it still buys * * * discs from * * *. This purchaser provided no information as to the quantity of its purchases or the actual price differential.

Purchaser 5.--* * *: This lost sale allegation was made by * * * and involves the purchase of * * * Brazilian discs in * * * , * * *. This purchaser reported that it purchased from * * * to * * * dollars' worth of Brazilian discs from * * * in * * *, which were priced from 30 to 35 percent lower than discs available from * * *. However, this purchaser also reported that it * * *. * * * obtained quotes for both U.S.-made and Brazilian-made discs and chose to buy Brazilian, primarily because of the price differential. Terms from * * * were net * * * or net * * * days.

Purchaser 6.--* * *: This lost sale allegation was made by * * * and involved the purchase of * * * Brazilian tillage tools other than discs in * * * 1983. This purchaser reported that before Brazil entered the tillage tool market it had purchased U.S.-made cultivator points from * * * for about $1.50 per point. Brazilian cultivator points were offered for under $0.90 per point by * * * and * * * decided to buy the Brazilian product. This purchaser also buys discs from * * *, with the Brazilian disc selling for about $5.00 and the U.S.-made disc selling for about $9.00. However, * * * observed that English and French discs are currently selling at prices almost as low as the price of Brazilian discs. * * * could provide no information as to the quantity of its purchases.

Purchaser 7.--* * *: This lost sale allegation was made by * * * and involved the purchase of Brazilian sweeps. * * * returned a questionnaire, and reported that although it had purchased Brazilian discs in 1983 and 1984, it had purchased no other types of tillage tools from Brazil, which would have included sweeps.

Purchaser 8.--* * *: This lost sale allegation was made by * * * and involved the purchase * * * of Brazilian tillage tools other than discs. * * * returned a questionnaire, and its reported purchases of other tillage tools from U.S. producers, Brazil, and other foreign sources is shown in the following tabulation (in units):

* * * * * * *

Purchaser 9.--* * *: This lost sales allegation was made by * * * and involved the purchase of * * * other tillage tools. This purchaser reported that it purchases both Brazilian sweeps and discs from Farmo. * * * knew the individuals from Crucible, which is how it was introduced to tillage tools from Brazil. * * * is an OEM of tillage implements that use tillage tools other than discs; however, it does not produce tillage implements that use discs therefore it cannot obtain U.S.-made discs from * * *. It purchases discs from Brazil. This purchaser purchases sweeps from both U.S. and Brazilian manufacturers. Brazilian made sweep prices for one specification are * * * , U.S. made sweep prices are * * *, which is why it purchases some Brazilian sweeps from * * *. This purchaser does a total volume of business of about * * * per year.

Purchaser 10--* * *: This lost sale allegation was made by * * * and involves competition from Brazilian tillage tools supplied by * * *. This purchaser reported that it is a wholesaler/distributor of other tillage tools as well as disc blades, but concentrates on the other tillage tool business. It purchases most other tillage tools from U.S. manufacturers. This purchaser competes with * * *, a U.S. importer of Brazilian made tillage tools for sales to dealers and retailers and reported that this importer sells the Brazilian made tillage tools to dealers at prices 25 to 30 percent lower than prices offered by this purchaser. This purchaser has requested, and in some cases obtained, additional discounts from the U.S. manufacturers because of this competition. * * * also reported that it has purchased some Brazilian disc blades, marked * * *, through * * * in California.

Purchaser 11.--* * *: This lost sale allegation was made by * * *; but * * * provided * * * details with this allegation. This purchaser reported that it has never purchased Brazilian tillage tools, although it has been approached by a * * * representative. It did not purchase the Brazilian tillage tools and did not use this Brazilian offer to obtain a lower price from * * *, the U.S. manufacturer, which is its primary supplier.

Purchaser 12.--* * *: This lost sale allegation was made by * * * in the petition and claims that this purchaser bought Brazilian sweeps which were * * * to * * * lower priced than U.S. made sweeps from * * *. This purchaser reported that it purchased about * * * Brazilian sweeps from * * * because they were about * * * lower priced than the same type of U.S.-made sweep from * * *. This purchaser reported that it competes with other parts discount houses that carry the Brazilian sweep so it had to purchase some Brazilian product to remain competitive. * * * reported that it still purchases some U.S. made sweeps from * * *.

Purchaser 13.--* * *: This lost sale allegation was made by * * * in the petition and alleges that * * * purchased Brazilian sweeps from * * * for prices lower that of * * *. This purchaser reported that it purchases Brazilian sweeps from a distributor, and domestic sweeps from * * *. The reason it purchases Brazilian sweeps is that this distributor has supplied tillage tools to this purchaser for a number of years, and a few years ago the distributor switched to Brazilian sweeps. This purchaser reported that there was little price difference between Brazilian sweeps from * * * and domestic sweeps from * * *.

Purchaser 14.--* * *: This lost sales allegation was made by * * * in the petition and involves the purchase of Brazilian sweeps from * * *. This purchaser reported that it buys most of its sweeps from * * *, and has traditionally purchased from this source. Therefore, this purchaser started purchasing Brazilian sweeps when his source began stocking Brazilian sweeps one or two years ago. This purchaser also purchases some sweeps from * * * a U.S. manufacturer, but this U.S. manufacturer approached this purchaser only about one year ago. * * * had formerly purchased * * * sweeps, but through * * *. The price differential between Brazilian sweeps from * * * and domestic sweeps from * * * is no more than 5 percent, and is not a major reason for buying Brazilian sweeps from * * *.

Purchaser 15.--* * *: This lost sales allegation was made by * * * and involves the purchase of * * * Brazilian discs in * * * . This purchaser reported that it buys U.S.-made discs from * * *, and discs made in Brazil and England. * * * uses U.S.-made discs exclusively on the farm implements it manufactures, but purchases primarily Brazilian discs for its aftermarket sales. The U.S. manufacturer had formerly supplied about 75 percent of this purchaser's disc requirements, and now supplies 25 percent, according to this purchaser. The lower price of the Brazilian disc was a major reason for its purchase. Currently, the price for a 24-inch disc from Brazil is about * * *, whereas the price of U.S.-made discs from * * * is 53 percent higher, or * * *. Approximately the same relative price differential exists for other sizes of discs, according to this purchaser. This purchaser also reported that it considers Brazilian discs to be lower quality than * * *'s U.S.-made discs.

During the final investigation, seven additional purchasers were contacted regarding five allegations of sales lost by * * * and two allegations of sales lost by * * *. Following are summaries of the information obtained during the final investigation.

Purchaser 16.--* * *: * * * alleged that it was unable to sell * * * discs of various types to * * * for * * * in * * * because * * * purchased Brazilian discs instead. * * * is an OEM * * *, * * *. * * *. A spokesman for * * * stated that he has never purchased Brazilian discs but has received * * * from * * * of * * * percent on * * *. The spokesman said that there is a sizable demand in his area for * * * blades in * * *. Because of the poor performance of the agricultural economy and "cut-throat" price competition for blades, however, his purchases from * * * have declined by about * * * percent during the last 1-1/2 years. He stated that Tatu (Marchesan) was the current price leader in his area.

Purchaser 17.--* * *: * * * named * * *, an OEM, in a lost sale allegation involving * * * and * * * disc blades purchased in * * *. A spokesman for * * * recalled buying some Brazilian blades from a firm in Canada * * * about 1 year ago because they were lower priced. He could not recall the exact quantity or price of that purchase. He received many complaints about the Brazilian blades, chiefly that * * *. Ever since this one experience with Brazilian blades he has purchased all his blades from * * *.

Purchaser 18.--* * *, * * *, was cited by * * * in a lost sales allegation involving * * * and * * * units (* * *) purchased during * * *. * * * reportedly used to be * * * main supplier of * * * and is still used to some extent. A spokesman for * * * confirmed the lost sale in * * * and reported that he purchased Brazilian and United Kingdom material instead. He purchased the Brazilian discs because they were priced much lower than products available from * * * or * * *. The British tillage tools he purchased at that time were also lower priced than domestic products but not as inexpensive as the Brazilian products. The Brazilian * * * blades were purchased directly from * * * in Brazil. When asked about the Brazilian payment terms, he said that they range from net 30 to net 120 days and are usually paid in 30 days. For * * *, the decision to purchase from Brazil was based on fierce price competition in the market for its manufactured implements. He asserted that the lower per unit cost of the Brazilian tillage tools, rather than any consideration of relative payment terms was his major reason to buy them.

Purchaser 19.--* * *: * * * alleged that it lost a sale to * * *, of * * * involving * * * discs in * * * because of competition from Brazilian imports. A spokesman for * * *, an OEM, said that his company buys discs to supply its * * * dealers, with annual purchases estimated at * * *. * * * used to buy discs from * * *. In the spokesman's opinion, after Crucible left the market, * * *. * * * dealers were complaining that they could buy discs at retail from parts stores for less than they were paying * * * for * * * discs. When * * * was searching for a lower priced source for discs, it decided to buy Brazilian discs because * * * had been using Marchesan blades for years. He believes that Marchesan's blades are high quality because they have met * * *. Since * * *, they have supplied their total disc needs with Tatu blades * * *.

Purchaser 20.--* * *: * * *, an OEM, was named by * * * in a lost sale allegation involving * * * and * * * discs purchased during * * *. A spokesman for * * * would only state that the company has bought both domestic and Brazilian blades. * * * returned the purchaser's questionnaire stating that the company's purchases of discs are between * * * annually. Estimates of * * * end-of-period inventories (in thousands of units), as reported in its questionnaire response are shown in the following tabulation:

	1981	1982	1983	1984	June 1985
Tillage tools:					
Imported from Brazil-------	***	***	***	***	***
Produced by U.S. firms---	***	***	***	***	***

It also indicated in its questionnaire response that the source of the domestic material in inventory was * * *.

Purchaser 21.--* * *: * * * cited * * *, a distributor in a lost sale allegation involving * * * of * * * during an undisclosed period. A spokesman for * * * stated that the company buys domestic tillage tools from * * * and Brazilian tillage tools from * * *, and that he has been a customer of * * * for * * * years. * * * spokesman said that its purchases from * * * have increased at the expense of * * * because * * * product line is broader now than it was in the past, estimating that its purchases from * * * have been * * * per year lower in recent years. * * * prices were much lower than * * *, but the price differential is smaller now. * * * 1985/86 purchase prices for * * * are * * * per unit net from * * *, and its prices from * * * are * * * per unit. However, * * * purchasing agent figures that with * * * cash discount, * * * volume rebate and * * * day terms, the net price to * * * is about * * * per unit for the * * * sweeps. There are no additional discounts offered on the * * * sweeps. He still buys a considerable amount from * * * but prefers * * * because they are lower priced, and they offer better service. For example, * * * which saves * * * inventory costs. * * * also reportedly has better promotional material and a good field staff. With * * *, he's forced to inventory the product.

Purchaser 22.--* * *: * * * alleged that it lost a sale to * * * involving * * * worth of * * *. No time period was specified. A spokesman for * * * stated that he has never purchased the named products from imported sources. His main suppliers are * * *. He did add, however, that he has not purchased domestic blades in years and purchases * * * from the United Kingdom and disc blades from Brazil.

APPENDIX A

FEDERAL REGISTER NOTICES ISSUED BY THE COMMISSION AND BY COMMERCE

[C-351-406]

Final Affirmative Countervailing Duty Determination; Certain Agricultural Tillage Tools From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain agricultural tillage tools. The net subsidy is 8.06 percent *ad valorem*. Our determination with respect to "critical circumstances" is addressed in the "Critical Circumstances" section of this notice.

We have notified the United States International Trade Commission (ITC) of our determinations. We are directing the U.S. Customs Service to continue to require a cash deposit or bond for each such entry in an amount equal to the net subsidy listed in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5050 or 377-2438.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain agricultural tillage tools. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Working-Capital Financing for Exports;
- Export Financing Under the CIC-CREGE 14-11 Circular;
- Finex Export Financing;
- Income Tax Exemption for Export Earnings; and

- Finep/ADTEN Long-Term Loans.

We determine the net subsidy to be 8.06 percent *ad valorem*.

Case History

On September 28, 1984, we received a petition filed by Ingersoll Products Corporation of Chicago, Ill., Empire Plow Company of Cleveland, Ohio, and Nichols Tillage Tools, Inc. of Sterling, Colo. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Brazil of certain agricultural tillage tools receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 18, 1984, we initiated such an investigation (49 FR 42971). We stated that we expected to issue a preliminary determination by December 22, 1984.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On November 12, 1984, the ITC preliminarily determined that there is a reasonable indication that these imports threaten material injury to a U.S. industry (49 FR 37856).

We presented a questionaire concerning the allegations to the government of Brazil in Washington, D.C. on October 29, 1984. On December 6, 1984, we received a response to the questionnaire.

On December 14, 1985, we received information from petitioners which established a reasonable basis to believe or suspect that the products under investigation benefitted from upstream subsidies in the form of subsidized steel inputs. Therefore, pursuant to section 701(g) of the Act, we included the upstream subsidy allegation in the investigation. In addition, because we determined that additional time was needed to make a determination concerning upstream subsidization, on January 3, 1985, we extended the due date for our preliminary determination to June 4, 1985, pursuant to section 703(h)(1) of the Act (50 FR 300). On January 25, 1985, we issued an upstream subsidy questionnaire, and received a response on February 25, 1985. On April 17, 1985, we issued a supplementary upstream subsidy questionnaire, and received responses on May 17, 22, and 28, 1985.

On the basis of information contained in these responses, we made a preliminary determination on June 4, 1985 (50 FR 24270). We verified the responses of the government of Brazil, the tillage tool producers, and their suppliers of steel inputs, from June 20 to July 11, 1985. Subsequent to the verification, we received an amended response from the government of Brazil on July 31, 1985.

Both petitioners and respondents submitted briefs addressing the issues arising from the investigation on July 19, 1985, and rebuttal briefs on August 2, 1985. Additional briefs were received on August 5 and August 8, 1985.

Scope of Investigation

The products covered by this investigation are certain agricultural tillage tools, which are defined for purposes of this proceeding as ground-engaging metal tools for tillage and cultivating equipment, such as cultivators, discers, and harrows. Tillage tools include round-shaped tools, such as colters, furrow-opener blades, etc., and tools that are not round-shaped (rectangular, triangular, and other odd shapes), such as points, chisels, sweeps, shovels, knives, furrowers, tines, drills, lister bottoms, rotary tiller blades, bed-shaping tools as well as plowshares, plowshines, moldboards, etc. Tillage tools are currently provided for in items 666.0015, 666.0020, 666.0050, 666.0060, 666.0065, and 666.0075 of the *Tariff Schedules of the United States, Annotated (TSUSA)*.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, issue of the **Federal Register** (49 FR 18006).

There are three known producers and exporters in Brazil of agricultural tillage tools to the United States for which we received information from the government of Brazil. These are Baldan Implementos Agricolas S.A. (Baldan), Marchesan Implementos e Máquinas Agrícolas "TATV" S.A. (Baldan) and Companhia Semeato de Aços (Semeato). In addition, we identified Companhia Aços Especiais Itabira S.A. (ACESITA) and Usinas Siderúrgicas de Minas Gerais S.A. (USIMINAS) as the upstream suppliers of steel inputs to the tillage tool manufacturers mentioned above. For purposes of this final determination, the period for which we are measuring subsidization ("the review period") is the calendar year 1983.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments filed by petitioners and respondents, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of certain agricultural tillage tools under the following programs.

A. Preferential Working-Capital Financing for Exports

The Carteira do Comércio Exterior (Foreign Trade Department, or CACEX) of the Banco do Brasil administers a program of short-term working-capital financing for the purchase of inputs. During the review period, these working-capital loans were provided under Resolution 647 of the Banco Central do Brasil. On January 1, 1984, Resolution 647 was superseded by Resolution 882, which was itself substantially amended by Resolution 950 on August 21, 1984.

Eligibility for this type of financing is determined on the basis of past export performance or of an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the maximum level of eligibility for such financing was 30 percent of the value of exports, and then 22 percent. At present, financing is capped at 20 percent of the value of exports.

Following approval by CACEX of their applications, participants in the program receive certificates representing portions of the total dollar amount for which they are eligible. The certificates may be presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation.

Use of a certificate establishes a loan obligation with a term of up to one year (360 days). Certificates must be used within 12 months of the date of issue, and loans incurred as a result of their use must be repaid within 18 months of that date.

The interest rate ceiling was raised from 40 to 60 percent on loans obtained under Resolution 674 on June 11, 1983. On January 1, 1984, Resolution 882 changed the payment date for both interest and principal to the expiration date of the loan. On August 21, 1984,

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Resolution 950 made this working-capital financing available from commercial banks, with interest calculated at the time of repayment.

Under Resolution 950, the Banco do Brasil paid lending institution an equalization fee of up to 10 percent of the interest (after monetary correction). In May 1985, the equalization fee was increased to up to 15 percent of the interest. Therefore, if the interest rate charged to the borrower is less than full monetary correction plus 15 percent, the Banco do Brasil pays the lending bank the difference, up to 15 percent. We verified that the lending bank, in turn, passes the 15 percent equalization fee on to the borrower in the form of a reduction of the interest due or a credit to borrower's account. Receipt of the equalization fee by the borrower reduces the interest rate on these working-capital loans by 15 percentage points below the commercial rate of interest. In addition, Resolution 950 working-capital loans are exempted from the Imposto sobre Operações Financeiras (IOF), which is charged on all financial transactions in Brazil.

Since receipt of working-capital financing is contingent on export performance, and since the equalization fee results in interest rates lower than commercially available rates, we determine that this program confers an export subsidy.

Our stated policy is to take into account program-wide changes that go into effect after the review period and before our preliminary determination. As stated previously, the current maximum level of eligibility is 20 percent of the previous year's value of exports. At verification, respondents did not demonstrate that they are using less than the maximum amount of financing for which they are eligible. Therefore, to calculate the benefit, we multiplied 20 percent by the 15 percent equalization fee plus the IOF. We thus calculated a net subsidy of 3.30 percent *ad valorem.*

B. Export Financing Under the CIC–CREGE 14–11 Circular

Under its CIC–CREGE 14–11 circular ("14–11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan.

In addition to requiring exchange contracts, the Banco do Brasil requires that these loans be fully secured by collateral in the form of tangible property. The bank normally requires that the value of collateral equal at least 130 percent of the amount of the loan. The bank also charges a commission on all such loans.

All exporters of manufactured products with production cycles of less than 180 days may apply for these loans. The maximum level of eligibility is based on the value of the applicant's exports in the previous year. Companies receiving the working-capital export financing described in section I.A of this notice have a maximum eligibility of 10 percent of the previous year's export value. All other companies have a maximum eligibility of 15 percent.

Although this program does in certain aspects appear to operate on a commercial basis, the government of Brazil did not supply sufficient data, in its current responses or at verification, to support its assertion that commissions, exchange contract requirements and collateral requirements serve to raise the effective rate on these loans to a level of comparability with those on short-term loans from other commercial sources. Without sufficient information with which to quantify these additional charges, we must compare unadjusted nominal rates on 14–11 loans with our commercial benchmark, *i.e.,* the nomimal discount rate of accounts receivable, as the best information available. This comparision shows that the rate on 14–11 loans is below the benchmark. Therefore, we determine that this program confers an export subsidy.

Baldan and Marchesan both obtained loans under this program. To calculate the benefit, we compared the interest rates charged with the appropriate benchmark and applied the difference to the principal amounts. We then allocated the benefit over the total exports of the three tillage tool producers, which resulted in a net subsidy of 1.76 percent *ad valorem.*

C. FINEX Export Financing

Resolution 68 of the Conselho Nacional do Comércio Exterior (CONCEX) provides that CACEX may draw upon the resources of the Fundo de Financiamento à Exportação (FINEX) to extend medium- and long-term financing for manufactured exports. Financing may be provided to exporters or to foreign importers. When provided to exporters, up to 85 percent of the value of the merchandise can be financed. Resolution 68 sets no limit on the amount available to foreign importers, nor does it specify the interest rates charged to either importers or exporters.

In its response, the government of Brazil stated that the products under investigation were eligible for FINEX financing but that the respondents did not receive it on transactions with the United States during the review period. We verified that the exporters did not use this financing, but were unable, during verification, to obtain any information from the government of Brazil as to the level of financing (if any) received by U.S. importers of agricultural tillage tools from Brazil. We received a statement from Baldan's sole U.S. importer that it never used FINEX financing. We also recieved statements from some U.S. importers of Marchesan's products that they had not used this form of buyer's credit since mid-1984. The government of Brazil did not supply any documentation in its responses or at verification to demonstrate that Marchesan's and Semeato's importers did not receive FINEX financing during the review period or are not currently receiving it.

Because use of FINEX financing is contingent upon exports, we determine that it is countervailable to the extent that it is offered on preferential terms. As noted above, Resolution 68 does not specify the interest rates charged. However, the *Gazeta Mercantil* reported on June 21, 1985, that FINEX rates were being lowered by up to 1.5 percent. Comparison of the lowered rates to the average U.S. prime rate for the first five months of 1985 indicates that FINEX financing is made at preferential interest rates.

In order to measure the benefit conferred by FINEX financing on exports of tillage tools from Brazil, we have used the best information available. Information on the record indicates that Baldan's sole U.S. importer has never used FINEX. We have assumed that 100 percent of Marchesan's and Semeato's exports to the United States were financed at an interest rate of 6 percent, which is 1.5 percentage points below the lowest FINEX rate listed in the *Gazeta Mercantil.* To calculate the benefit, we multiplied Marchesan's and Semeato's exports to the United States by the interest rate differential. We then divided the benefit by total exports of tillage tools to the United States, and calculated a net subsidy 2.91 percent *ad valorem.*

D. Income Tax Exemption for Export Earnings

Under Decree-Laws 1158 and 1721, exporters of agricultural tillage tools are eligible for an exemption from income tax on a portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we determine that this exemption confers an export subsidy. Semeato did not claim this exemption. Baldan and Marchesan both took an exemption from income tax payable in 1983 on a portion of export profits earned in 1982. We indexed that portion as required under Brazilian tax law, and multiplied it by each company's effective corporate tax rate to calculate the benefit. We determined each company's effective corporate tax rate by taking the base tax liability and adding, were applicable, the standard surcharge for excess profits, and subtracting the deductions for the investment tax credit and the Social Integration Program (SIP) tax taken by the respondents, and dividing the result by taxable income. In the past, we have refused to accept the investment tax credits in calculating an effective tax rate because, absent a showing of a reasonable expectation of returns from these investments, we considered them to be merely a way of targeting the firm's taxes. However, in this proceeding, Baldan and Marchesan have demonstrated that these investments can yield returns. Therefore, we have deducted the investment credits in calculating each company's effective tax rate. We allocated the benefit over the total value of all exports by the respondents to calculate a net subsidy of 0.07 percent *ad valorem.*

E. FINEP/ADTEN Long-Term Loans

During verification, we discovered that Semeato received in 1983 a long-term loan under the ADTEN program of FINEP, an agency of the government of Brazil.

We received no information from the government of Brazil describing FINEP's organization, purpose, and programs. Information on the record of the case of *Certain Cast-Iron Pipe Fittings from Brazil* (50 FR 8755) indicates that FINEP (Financiador de Estudos e Projectos) is charged with promoting scientific and technological development in Brazil, in conjunction with the Conselho Nacional de Desenvolvimento Cientifico e Tecnológico. To this end, FINEP grants loans through state-owned development banks, in the case of Semeato, the Banco Regional de Desenvolvimento de Extremo-Sul (BRDE). FINEP programs must implement the objectives set forth by the federal Secretaria de Planejamento (SEPLAN) in its third "Plano Básico de Desenvolimento Cientifico e Tecnológico" (III PBDCT).

Under the ADTEN program, FINEP makes loans for projects which:

- Develop new products,
- Adapt and absorb new technology,
- Train human resources to absorb new technology,
- Market new products and implement management techniques to employ new technology,
- Develop quality-control techniques,
- Establish new research and development centers in Brazil, and
- Engage in pure research.

Borrowers negotiate the terms of each loan with the regional development banks with which they deal. They must submit to the terms of the loan imposed by the bank and by FINEP, which disburses the funds in allotments, and maintains project oversight throughout the life of the loan.

The interest rate on this loan to Semeato was substantially equivalent to rates charged on loans made in 1983 by the Banco Nacional de Desenvolvimento Econômico e Social (BNDES). However, the principal amount of the loan was only partially indexed to inflation, as measured by the variation in ORTN (Obrigações Reajustáveis do Tesouro Nacional or National Treasury Readjustable Bonds). We have no information on the record of this case that BNDES loans are not fully indexed to the inflation rate. For this reason, and because the government of Brazil did not demonstrate that these loans were not provided to a specific enterprise, industry, or group of enterprises or industries, we determine that these loans are countervailable.

Using BNDES financing as the benchmark in this case, we compared principal and interest payments due on this loan in 1983 using both partial and full indexation, and took the differential in payment streams as the benefit. We allocated the benefit over the respondents' total sales, and calculated a net subsidy of less than 0.001 percent *ad valorem.*

II. Upstream Subsidies

Petitioners allege that Brazilian tillage tool producers receive an "upstream subsidy" through the purchase of subsidized steel inputs. Under section 771A(a) of the Act, we must apply the following tests in order to determine whether "upstream subsidies" are being paid or bestowed upon the products under investigation:

> The term "upstream subsidy" means any subsidy described in section 771(5)(B) (i), (ii), or (iii) by the government of a country that—
>
> (1) Is paid or bestowed by that government with respect to a product (hereafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;
>
> (2) In the judgment of the administering authority, bestows a competitive benefit on the merchandise; and
>
> (3) Has a significant effect on the cost of manufacturing or producing the merchandise.

In our preliminary determination, we found that the three tests were met. With respect to the last test, the "significant effect" test, we stated:

> We multiplied the *ad valorem* subsidy rates calculated for ACESITA and USIMINAS (the producers of the input product) by the percentage that the government of Brazil claims the subsidized steel inputs account for in the cost of producing tillage tools. In both cases, we found that the estimated net subsidy accounted for more than one percent of the cost of manufucturing or producing the merchandise. For purposes of this preliminary determination, we consider that the "significant effect" test has been met.

We also requested comments on this threshold measure for significant effect.

We have reviewed the comments submitted by petitioners and respondents and the legislative history of the upstream provision. We have concluded that it would be inappropriate to apply an automatic threshold in determining whether subsidies to suppliers of an input have a significant effect on the cost of producing the merchandise under investigation. We have been guided in reaching this conclusion by the statement of the House Committee on Ways and Means:

> The purpose of this condition is to avoid needless investigation and verification of upstream subsidies which, although passed through to the final merchandise, are insignificant in affecting the competitiveness of that final product.
>
> [H.R. Rep. No. 725, 98th Cong., 2d Sess. 34 (1984)].

Under our interpretation of this statement, any evaluation of the effect of upstream subsidies on the competitiveness of the final product involves more than a simple multiplication of the *ad valorem* subsidy rate on the input times the share that the input accounts for in the cost of producing the final product. Instead, the significance of the subsidies to the upstream product derives from the significance those subsidies may have on the competitiveness of the final product.

To assess the significance on the competitiveness of the final product, we must consider the degree to which the final product competes on the basis of price. When a small decrease in price can lead to a large increase in sales, even a very small subsidy to an upstream supplier could have a significant effect on the competitiveness of the final product. In these circumstances, the application of a threshold exceeding one percent, as suggested by respondents, would be inappropriate. Conversely, when the competitiveness of the final product is heavily influenced by non-price factors, such as quality, consumer loyalty and consumer concern for diversity of supply, a higher threshold for significant effect may be appropriate. In short, we intend, at this time, to apply the significant effect test on a case-by-case basis.

While we cannot support at this time a fixed threshold for significant effect, we recognize that a case-by-case approach may lead to some uncertainty. In particular, petitioners should have some indication of whether it will be worthwhile to pursue an upstream investigation, and respondents should be made aware of the general standard to which they will be held accountable and the types of information we will need.

Therefore, we intend to apply the following standards with respect to the significant effect test. If the product of the *ad valorem* subsidy rate on the input times the share that the input product accounts for in the cost of producing the final product exceeds five percent, we will presume that the subsidies on the input have a significant effect on the cost of producing the merchandise under investigation. At the other extreme, if the product of the *ad valorem* subsidy rate on the input times the share that the input product accounts for in the cost of producing the final product is less than one percent, we will presume that the subsidies on the input do not have a significant effect on the cost of producing the merchandise under investigation. We consider both norms to be rebuttable presumptions; these one and five percent thresholds are not immutable. If the parties in a particular case present evidence that the competitive circumstances of the final product warrant a higher or lower thershold, we will take such evidence into consideration.

In establishing these norms, we also recognize our limited experience in administering the provision. As we attempt to apply these norms in future cases, we may find them to be inappropriate. We may learn that the proper administration of the upstream provision requires an automatic application of a minimum threshold.

As noted in the above-quoted legislative history, one purpose of this provision is to avoid needless investigation and verification of upstream subsidies. The standards we have proposed are an attempt to balance the competing concerns of finding those subsidies that confer a competitive benefit on the final product and of not expending our resources on difficult investigations that yield little in the way of relief to domestic industries. Based on our limited experience in administering this provision, a one percent threshold for initiating an upstream investigation is a reasonable starting point for achieving this balance.

We have applied the standards outlined above to determine whether the significant effect test is met in this investigation. We have calculated the net subsidy bestowed on the two suppliers of steel inputs, ACESITA and USIMINAS, and the share acounted for by this input in the cost of producing agricultural tillage tools.

A. Domestic Subsidies

Our calculation of the net subsidy is based on our determination that domestic subsidies are being provided to ACESITA and USIMINAS, suppliers of hot-rolled carbon steel plate in coil and hot-rolled carbon steel sheet in coil to the tillage tool manufacturers, under the following programs.

1. *Government Provision of Equity Capital to USIMINAS.* Siderurgia Brasileira S.A. (SIDERBRAS) is a government-controlled corporation under the jurisdication of the Ministry of Industry and Commerce. Pursuant to Decree-Law 6159 of December 6, 1974, SIDERBRAS became the holding company for the federally-owned steel corporations. SIDERBRAS is a majority shareholder of nine Brazilian steel producers and a minority shareholder of one small Brazilian steel producer. During 1979–1983, SIDERBRAS made equity infusions into USIMINAS.

We have consistently held that government provision of, or assistance in obtaining, capital does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when provided on terms inconsistent with commercial considerations. When a company's shares are not publicly traded and, hence, there is no market-determined price for the shares, we examine whether the company was a reasonable equity investment (a condition we have termed "equityworthiness") in order to determine whether the equity infusions were inconsistent with commercial considerations.

For purposes of this determination, we reviewed the company's financial data and all other factors on the record. We focused on the rate of return on equity and long-term prospects for the company in question for the period 1977 through 1983. We examined financial ratios, profits and losses, and other factors, such as market demand projections and current operating results, to evaluate the company's current and future ability to earn a reasonable rate of return on equity investments.

Based on these factors, as applied to information on the record, we found USIMINAS to be equityworthy between 1977 and 1979 and unequityworthy between 1980 through 1982 [*see* "Certain Carbon Steel Products from Brazil; Final Affirmative Countervailing Duty Determinations (49 FR 17988)]. In addition, we now find USIMINAS to be unequityworthy in 1983. Accordingly, we determine that the action of the government in taking an equity position in the company in those years is inconsistent with commercial considerations and confers a subsidy.

2. *IPI Tax Rebates for Capital Investment.* Decree-Law 1547, enacted in April 1977, provides funding for capital investment in approved expansion projects in the brazilian steel industry through a rebate of the Imposto sobre Produtos Industrializados (IPI), which is a value-added tax imposed on domestic sales. The IPI tax is an indirect tax and, as such, is passed on to the consumer. A steel company collects this tax on sales as an agent for the government, and does not pay the tax itself. Decree-Law 1547 is a mechanism by which a steel company is permitted to collect funds due the government and then receive a 95 percent tax rebate. The program does not involve the rebate of payments made from the company's own funds.

Originally, the IPI tax applied to all domestic sales transactions. In 1979, the value-added tax was eliminated except for producers in 14 industry sectors, including tobacco, automobiles, spirits and alcohol, ceramics, rubber, and steel. The tax rate is different for each of the specified industry sectors; for steel products, the value-added tax is 5 percent.

A Brazilian steel company may deposit 95 percent of the net IPI tax due in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects. When rebated to the firms, they constitute reserves that must eventually be converted into subscribed capital.

Under the terms of Resolution 68–77 issued by the Conselho de Não-Ferrosos e Siderurgia (CONSIDER), which implements Decree-Law 1547, IPI tax rebates are payable only on basic steel product and certain fabricated steel products such as seamless steel pipes. ACESITA and USIMINAS both received IPI tax rebates as manufacturers of basic steel products. Because IPI tax rebates are limited to a specific number of products and tied to investiments in government-approved projects, we determine that these rebates confer a subsidy.

3. *Exemption of IPI Tax and Customs Duties on Imported Equipment (CDI).* Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council, or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

Decree-Law 1726 repealed this program in 1979. Subsequently, no new projects were eligible for these benefits. However, companies whose projects were approved prior to the repeal still receive these benefits pending completion of the project.

Both ACESITA and USIMINAS received benefits under this program during the review period. In "Certain Carbon Steel Products from Brazil: Final Affirmative Countervailing Duty Determinations" (49 FR 17988), we found that receipt of this benefit is limited to projects in 14 industries approved by the government of Brazil. During verification, the government of Brazil provided no new documentation with respect to this program. Based on the record of this and earlier Brazilian countervailing duty investigations, we have concluded that these benefits are limited to specific enterprises or industries. Accordingly, we determine the CDI program confers a subsidy on ACESITA and USIMINAS.

We examined several other domestic programs which were available to ACESITA and USIMINAS:

- Loan Guarantees on Foreign-Denominated Debt;
- Special Tax Deductions; and
- Accelerated Depreciation for Brazilian-Made Capital Equipment.

The first of these programs is determined not to confer a subsidy, and is discussed below in "Program Determined Not to Confer a Subsidy;" the last two are discussed in "Programs Determined Not to Be Used."

B. Calculation of Net Subsidy to Input Suppliers

Using the methodogies outlined in our preliminary determination, we calculated the net subsidies under the domestic subsidy programs described above. We then calculated the overall subsidy to suppliers of steel inputs by weighting the net subsidy received by ACESITA and USIMINAS by the percentage of steel they each supplied for the production of tillage tools in 1983. This net subsidy is 2.43 percent *ad valorem.*

C. Share of the Cost of Production Accounted for by Steel Inputs

Petitioners alleged that steel inputs account for 50 percent of the cost of producing tillage tools. In its initial response, the government of Brazil stated this figure was approximately 47 percent. At verification, the respondents were unable to demonstrate that 47 percent was an accurate figure, and instead provided a number of lower estimates. Petitioners, however, stated in their briefs that the Department must continue to use the 47 percent average supplied by the government of Brazil in its response, and not the lower estimates supplied during verification. Moreover, the government of Brazil indicated that 47 percent was not an inaccurate estimate. Accordingly, we are assuming, as best information available, that steel inputs account for 47 percent of the cost of producing tillage tools.

D. Significant Effect

According to the significant effect methodology outlined *supra,* the product of the *ad valorem* subsidy rate on the input product times the share that the input accounts for in the cost of producing agricultural tillage tools is 1.14 percent. This is slightly greater than the one percent threshold and, therefore, we have analyzed its potential significance by examining the competitiveness of the final product.

We did not seek this type of information in this investigation. Nevertheless, respondents have claimed that "tillage tools are not fungible and quality differs among products." We have compared this claim to the information contained in the ITC's preliminary report and have concluded that such an unqualified statement is not substantiated by evidence on the record.

Statements in the ITC report by purchasers of tillage tools indicate that the Brazilian product is of a lower quality. They also indicate that there is a price/quality tradeoff in the view of consumers. When there is a slight price differential, the purchaser will opt for the higher quality product. When the price differential is large, purchasers appear to select the lower-priced product. For example, Brazilian prices are reportedly 30 to 50 percent lower. Other purchasers have used the Brazilian product because their suppliers stock this product or for diversity of supply. Thus, there are indications of both price and non-price competition.

We have concluded that if the quality of the Brazilian tillage tools were comparable to that of the products with which they compete, the subsidies to the input suppliers might have a significant effect on the competitiveness of Brazilian tillage tools. However, this is not the case. Quality differences and other non-price factors appear to be importent determinants of demand for agricultural tillage tools. Also, substantial price differentials appear to encourage consumers to switch to the Brazilian products. Given the magnitude of the cited price differentials, we conclude that a subsidy to input producers that accounts for 1.14 percent of the cost of producing tillage tools does not have a significant effect on the competitiveness of the Brazilian tillage tools. Therefore, we determine that the subsidies to Brazilian steel producers do not have a significant effect on the cost of producing Brazilian agricultural tillage tools. Given this finding, we need not determine whether subsidies to Brazilian steel producers confer a competitive benefit on agricultural tillage tool producers in Brazil.

III. Program Determined Not To Confer a Subsidy

We determine that subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain agricultural tillage tools under the following program.

Loan Guarantees to Input Suppliers on Foreign-Denominated Debt

During verification, we ascertained that both ACESITA and USIMINAS had received government guarantees on foreign-denominated loans that were still outstanding during the review period. Under Decree-Law 1312, guarantees on foreign-denominated debt are available to Brazilian borrowers to finance the following projects: Modernization of harbors, programs of Federal agencies abroad, transportation, cold storage and slaughterhouses, electrical energy, basic industries and agriculture, education, public health, urban or rural sanitation, communications, fisheries, assistance to small and medium enterprises, housing, livestock raising, urban and regional integration and development, and national security. The law also indicates that guarantees are available to private as well as government-owned firms. Accordingly, we determine that government loan guarantees on foreign-denominated debt are not limited to a specific enterprise or industry or group of enterprises or industries.

IV. Programs Determined Not To Be Used

We determine that manufacturers, producers or exporters in Brazil of certain agricultural tillage tools did not use the following programs which were listed in our notice of "Initiation of a Countervailing Duty Investigation: Agricultural Tillage Tools from Brazil" (49 FR 40431):

A. IPI Tax Rebates for Capital Investment

Decree-Law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales.

The government of Brazil stated in its response that tillage tool producers are not eligible for IPI rebates under Decree-Law 1547. During verification, we ascertained from our review of the legislation that tillage tool manufacturers are ineligible for these rebates. We also reviewed the respondents' balance sheets and accounting ledgers, and saw no evidence that they had received these rebates.

B. Resolution 330 of the Banco Central do Brasil

Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of agricultural tillage tools would be eligible for financing under this program. However, the government of Brazil stated in its response that none of the tillage tool producers participated in this program during the review period. During verification, we reviewed each company's accounting ledgers and found no evidence that the respondents received such financing with respect to their exports.

C. Exemption of IPI Tax and Customs Duties on Imported Equipment (CDI)

Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council, or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil. We verified that none of the tillage tool producers received incentives under this program during the review period.

D. The BEFIEX Program

The Comissão para a Concessão de Benefícios Fiscais a Programas Especiais de Exportação (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFIEX) grants at least three categories of benefits to Brazilian exporters:

- Under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties and the IPI tax on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials and intermediate products;
- Under article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from 4 to 6 years; and
- Under article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved projects.

We verified that none of the tillage tool producers participated in this program.

E. The CIEX Program

Decree-Law 1428 authorized the Comissão para Incentivos à Exportação (Commission for Export Incentives, or CIEX) to reduce import taxes and the IPI tax up to 10 percent on certain equipment for use in export production. We verified that none of the tillage tool producers received any benefits under this program.

F. Accelerated Depreciation for Brazilian-Made Capital Equipment

Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. We verified that none of the respondents availed itself of this program during the review period.

G. Incentives for Trading Companies

Under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 674, 682, and 950. Tillage tool producers are ineligible for participation in this program because such participation is precluded by receipt of working-capital export financing. At verification we saw no evidence that any of the tillage tool producers used the services of trading companies for export sales.

H. The PROEX Program

Short-term credits for exports are available under the Programa de Financiamento à Produção para à Exportação (PROEX), previously referred to as the Apôio à Exportação program. We verified that none of the tillage tool producers participated in this program during the review period.

I. Programs Not Used by Input Suppliers

1. *Special Tax Deductions.* We verified that USIMINAS incurred a loss in 1982 and paid no income tax for that year in 1983; therefore, it could not have used losses of other companies in the SIDERBRAS group to offset profits during the review period. We also verified that neither ACESITA nor USIMINAS benefits from any local tax incentives which minimize their tax liability. Accordingly, we determine that neither ACESITA nor USIMINAS received any special tax deductions.

2. *Accelerated Depreciation for Brazilian-Made Capital Equipment.* We verified that ACESITA took advantage of this tax provision during the review period. Under this provision, after taking the initial deductions for accelerated depreciation, companies must, in subsequent years, add back to net profits amounts equal to the accelerated depreciation previously claimed. On the income tax return filed during the review period, ACESITA added back more accelerated depreciation than it deducted, thereby cancelling out any benefit that could have accrued to the company. We also verified that USIMINAS paid no corporate income taxes in 1983 because it incurred a loss in 1982.

V. Program Determined To Have Been Terminated

IPI Export Credit Premium

Until very recently, Brazilian exporters of manufactured products were eligible for a tax credit on the

Imposto, sobre Productos Industrializados (Tax on Industrialized Products, or IPI). The IPI export credit premium, a cash reimbursement paid to the exporter upon the export of otherwise taxable industrial products, was found to confer a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Subsequent to April 1, 1981, the credit premium was gradually phased out in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"). Under the terms of Ministry of Finance "Portaria" (Notice) No. 176 of September 12, 1984, the credit premium was eliminated effective May 1, 1985. We verified that the tillage tool producers received no IPI export credit premiums after that date.

Accordingly, consistent with our stated policy of taking into account program-wide changes that occur subsequent to the review period but prior to our preliminary determination, we determine that this program has been terminated, and no benefits under the program are accruing to current exports of tillage tools to the United States.

VI. Program Determined Not To Exist

Income Tax Deductions for Foreign Selling Expenses

During verification, we reviewed the respondents' income tax returns and the instruction manual for filling out Brazilian income tax forms. We saw no evidence that there exists a special program of tax deductions for foreign selling expenses. Accordingly, we determine this program does not exist.

Petitioners' Comments

Comment 1: Petitioners argue that the information provided by the respondents regarding the utilization of FINEX financing by U.S. importers of tillage tools is not verifiable, and should not affect the Department's final determination.

DOC Position: As best information available, we have accepted the information in the record that Baldan's sole U.S. importer has never used FINEX buyer credits. However, since we do have information on the record from several other importers stating that they have used FINEX, we consider this to be the best information available, and are using it in our calculation of benefits provided to U.S. importers of tillage tools under this program.

Comment 2: Petitioners argue that the types of subsidies being bestowed on the input producers provide those producers with a windfall of "up-front" cash, or may allow them to achieve economies of scale or increased productivity so that a small subsidy may have an effect that extends beyond the value of the subsidy as calculated by the Department. Moreover, cash infusions can affect a company's debt/equity ratio and its creditworthiness. This, in turn, means that the consumers of those inputs realize a savings greater than the per-unit subsidy attributed to the inputs they purchase. Therefore, petitioners argue that an upstream subsidy of one percent or more of the cost of producing tillage tools meets the significant effect standard.

DOC Position: We disagree. In determining significant effect, we have followed the statutory mandate of examining the effect that domestic subsidies to input suppliers have on the cost of producing tillage tools. The methodology we apply to value subsidy programs captures the benefits which can be measured. Petitioners are asking us to consider secondary effects of domestic subsidies to the input producers. We have consistently maintained that we will not look at these effects because such analysis is highly speculative and could result in double-counting (see, *e.g.*, "Final Affirmative Countervailing Duty Determination; Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina," 49 FR 18006). More importantly, were we to find that a competitive benefit is being bestowed on agricultural tillage tools through upstream subsidies, the amount of the countervailing duty on the tillage tools could not, under section 771A(c) of the Act, exceed the amount of the domestic subsidy found to exist on the input product. Therefore, it would be inappropriate to consider any secondary effects the subsidies on inputs may have on the merchandise under investigation. While we have adopted the rebuttable presumption of a one percent threshold for the significant effect test, it was for the reasons described in section II of our notice.

Comment 3: Petitioners argue that there is no verified evidence that the two CIC-CREGE 14-11 loans taken out by Marchesan were repaid. The Department should therefore treat any loans outstanding beyond their term as grants to the producer.

DOC Position: The evidence on the record shows that Marchesan has repaid these loans; therefore, we are calculating the benefit in accordance with our standard short-term loan methodology.

Comment 4: Petitioners argue that because respondents did not provide an explanation for Semeato's exemption from the IPI tax, the Department should find that the exemption constitutes an export subsidy

DOC Position: The verification exhibits show that Semeato received one very small exemption from the IPI tax on one of its import shipments and that the IPI tax was charged on all other imports of the same merchandise. This one small exemption does not provide any indication that Semeato is benefiting from regular exemptions from the IPI tax on imported goods. Even if we were to consider that this single small exemption was a subsidy, the amount of the subsidy would be so small that there would be no effect on the overall net subsidy calculated.

Respondents' Comments

Comment 1: The government of Brazil contends the Department improperly valued the amount of net subsidy from Resolution 950 loans by erroneously assuming a maximum utilization level and interest rate differential.

DOC Position: We disagree. With respect to our use of a maximum interest rate differential of 15 percent, we verified that the lending bank passes the 15 percent equalization fee on to the borrower in the form of a reduction of the interest due or a credit to the borrower's account. Regarding our assumption of the maximum 20 percent utilization rate, the respondents did not demonstrate during verification that they are using less than the maximum amount of financing for which they are eligible.

Comment 2: The government of Brazil contends that the Imposto sobre Operações Financeiras (IOF) is an indirect tax on the production of goods for export, that the exemption of loans under Resolutions 674/882/950 from this tax is not a subsidy, and that if we determine that Resolution 674 financing provides a subsidy, we should not consider this exemption as part of that subsidy.

DOC Position: We disagree. Since financing for domestic transactions is subject to the IOF tax, it is appropriate that we reflect the exemption of Resolution 950 loans from the IOF as part of the subsidy in order to measure the full benefit provided under this program. Moreover, we do not view the IOF as a tax on the production or distribution of the product.

Comment 3: The government of Brazil argues that the CIC-CREGE 14–11 circular is not a government program and, therefore, does not bestow a government subsidy on the exportation of agricultural tillage tools. The CIC-CREGE 14–11 program is consistent with commercial considerations, since the costs of the program are covered by charges payable by the recipients; therefore, under Annex A of the Subsidies Code, paragraphs (j) and (k), this program does not confer a subsidy.

DOC Position: We disagree. Our determination that the CIC-CREGE 14–11 program provides countervailable benefits is based on (1) the fact that, under Brazilian law, the Banco do Brasil, which administers this program, acts as the government of Brazil's financial agent, and (2) respondents' failure to demonstrate that the program does not provide preferential loans to exporters. Our uniform practice has been to calculate a subsidy provided under a preferential loan program by comparing the preferential rate to the benchmark interest rate, rather than to the cost of the funds to the lender.

As previously stated in our notice of "Final Affirmative Countervailing Duty Determination; Ceramic Tile from Mexico" (47 FR 20012), "[r]egardless of what effects the Illustrative List of Export Subsidies may have on U.S. law otherwise, the uniform past practice on this issue in comparison with the legislative history of the Trade Act requires us to calculate the bounty or grant provided under a preferential loan program on the basis of a comparison between the preferential rate and the commercially available rate rather than on the basis of a comparison with the cost of funds to the government."

Comment 4: The government of Brazil claims the Department, in calculating the subsidy benefit derived from the alleged CIC–CREGE 14–11 program, incorrectly includes the IOF tax in the benchmark. Furthermore, the government of Brazil contends that the use of a compounded average benchmark for the period is inappropriate because the discount rate in effect on the date the loan was taken out most accurately reflects the cost of alternative available financing.

DOC Position: We disagree. We consider that it is appropriate to include the IOF tax in our benchmark since the IOF tax is imposed on all domestic financial transactions. With respect to the benchmark, because the CIC–CREGE 14–11 loans we are examining were taken out throughout the review period, we have calculated a benchmark for that some period. Calculating a specific benchmark rate for each loan, as respondents suggest, would undermine our short-term loan methodology which states that the use of company-specific benchmarks would significantly impair our ability to administer the countervailing duty law within the short time limits established by the Act.

Comment 5: The government of Brazil claims that the Department has overstated the benefit from the income tax exemption for export earnings by using the nominal tax rate, as opposed to the effective tax rate applicable to the respondents. Brazilian tax law allows corporations to invest 28 percent of taxes owed into certain specified corporations or funds. The government argues that this provision results in an effective reduction of the corporate income tax rate, which decreases the benefit from the income tax exemption.

DOC Position: Where we were able to verify that the company used the 28 percent investment tax credit, we have taken it into account in calculating the company's effective tax rate.

Comment 6: As it has in the past, the government of Brazil argues that the Department erred in valuing the subsidy arising from the income tax exemption for export earnings by allocating the benefit over export sales rather than total sales. Because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefits accrue to the entire operations of the firm and not just to exports. Further, an income tax exemption calculated on this basis does not affect the price of the exported product only; rather, it must have a general effect on all prices, both domestic and export.

DOC Position: We disagree. As we have stated repeatedly in prior Brazilian determinations, when a firm must export to be eligible for benefits under a subsidy program, and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program confers an export subsidy. The fact that the firm as a whole must be profitible to benefit from the program does not detract from the program's basic function as an export subsidy. Therefore, the Department will continue to allocate the benefits under this program over export revenues instead of total revenues.

Comment 7: The government of Brazil argues that FINEX export financing does not confer a subsidy because the terms of such financing are commercially reasonable.

DOC Position: We disagree. Information on the record indicates that FINEX interest rates are below prevailing commarical interest rates that would be paid by importers in the United States.

Comment 8: Respondents contend that no Brazilian exporters or U.S. importers of tillage tools received any short-term FINEX export financing during the review period. Furthermore, respondents contend that tillage tools have not been eligible for long-term FINEX financing since September 1984, and that our stated policy to take into account program-wide changes made subsequent to the review period but prior to the preliminary determination should preclude us from finding this program to confer an export subsidy.

DOC Position: We disagree. There is no evidence on the record of this case to document either of these assertions, which were made subsequent to the verification.

Comment 9: The government of Brazil contends that FINEP/ADTEN loans are generally available to all industries in Brazil and should not be found to confer a domestic subsidy.

DOC Position: We disagree. The only information on the record concerning these loans is a telex from one Brazilian government agency to counsel for the government of Brazil in Washington. During verification, Department officials were not given an opportunity to meet with FINEP administrators or to examine program records.

Comment 10: The government of Brazil argues that the Department, in finding government equity infusions in USIMINAS to be inconsistent with commercial considerations, erred by focusing on a restricted number of short-term financial ratios, thereby ignoring the broader industrial and financial context in which this company operates.

DOC Position: In arriving at our determination, we considered the information submitted by the respondents concerning this issue, specially untranslated annual reports and financial statements for the last several years. Therefore, we focused our reveiw on the financial results of the company, including the ability to meet debt obligations, current operations, and rates of return on assets and equity. In light of these results, we consider USIMINAS to be unequityworthy and uncreditworthy in 1983.

Comment 11: The government of Brazil contends that a review of the performance of USIMINAS over the past 15 years demonstrates that, with a few exceptions, the company has had a record of positive rates of return on equity and postive financial ratios.

DOC Position: Although USIMINAS earned some profits between 1975 and 1980, it showed very low or negative profits from 1980 onwards. Since a private investor will focus on a company's most recent performance as an indication of future earnings trends, we considered the more recent years to be more important to our analysis of whether government equity infusions into USIMINAS were inconsistent with commercial considerations. Moreover, a demonstration of profits or earnings alone is not sufficient for a company to be equityworthy. The rate of earnings per unit of equity, and not the absolute level of earnings, is a far more important determinant of a company's performance.

Comment 12: The government of Brazil argues that the Department should not use the year-end equity amount when determining the rate of return on equity used in our short-fall calculation. The government argues that the rate of return on equity is distorted by use of a year-end equity figure which already reflects the amount of the loss.

DOC Position: We agree that the year-end equity figure should not be used since it does not reflect the average amount of equity employed by the company throughout the year. Accordingly, we have revised the company's rate of return on equity by calculating this return on the average equity for 1983.

Comment 13: The government of Brazil argues that the Department erroneously calculated the benefits from equity infusions in USIMINAS by distributing over all of 1983 infusions which were not made until later in that year.

DOC Position: We disagree. It has been our consistent practice to compute benefits received by a firm during a period of time (in this case the 1983 calendar year), and apply them to the total value of sales for the same period (see, *e.g.*, "Final Affirmative Countervailing Duty Determinations; Certain Carbon Steel Products from France," 47 FR 39332). Any other approach would present an enormous administrative burden. When there are many types of benefits received and the number of disbursements under any given program is large, it would be unduly burdensome to make adjustments for the fact that a particular benefit was received earlier or later in the review period. Therefore, to be consistent in our treatment of different types of subsidies and across cases, we have chosen to treat all benefits received during the review period as applying to all sales made during that same period.

Comment 14: The government of Brazil contends that the Department incorrectly applied average annual ORTN coefficients in converting cruzeiro-denominated equity infusions to determine the amount of benefit, rather than using the ORTN value in effect on the date of the equity infusion.

DOC Position: We disagree. We would prefer to use in this calculation the equity amount adjusted for inflation as reported in the company's books. However, absent this information, we are not persuaded that using average ORTN rates to adjust the value of the equity is inappropriate.

Comment 15: The government of Brazil states the Department erred in using its benchmark an industry-wide average rate of return, rather than the average rate of return applicable to heavy industry.

DOC Position: We disagree. In the Subsidies Appendix, we stated that "[f]or government equity purchases which we deem inconsistent with commercial considerations, we measure the benefit by multiplying the difference between the company's rate of return on equity and the national average rate (of return on equity)." The national, as opposed to a sectoral, rate of return is a more accurate measure of what a reasonable investor in Brazil will earn on his investments.

Comment 16: The government of Brazil contends, with respect to IPI tax rebates provided under Decree-Law 1547, that the value-added tax or IPI is not generally applicable in Brazil and that the rebate of this tax does not confer a countervailable benefit.

DOC Position: We disagree. Although the same amount of IPI tax is applied to all steel products, only companies producing certain priority products and whose expansion projects are government-approved may receive the rebates. Fabricators of steel products (such as welded pipe and tube manufacturers who purchase coil) are not eligible for the rebates. USIMINAS itself has not been eligible for the rebates since Decree-Law 1843, enacted in December 1980, directed that rebates of the IPI tax collected on sales by state-owned steel companies accrue to SIDERBRAS. Therefore, the rebates are not generally available and constitute a benefit to selected producers.

Comment 17: The government of Brazil argues that since IPI tax rebates under Decree-Law 1547 are paid only on goods sold in the domestic market, no products exported to the United States benefit from the rebate and therefore no subsidy is conferred.

DOC Position: We are countervailing these rebates because receipt thereof is tied to investment in government-approved projects. Although the amount of rebate any firm receives may increase along with domestic sales, the existence of domestic sales does not guarantee that a rebate will be received.

Comment 18: The government of Brazil argues that the Department's calculation of the benefits to USIMINAS from IPI rebates was erroneous because (1) a discount rate reflecting USIMINAS's creditworthiness from 1977–79 should have been used for grants in those years; (2) the discount rate during USIMINAS's uncreditworthy period included compensating balances, which the Department has recognized are not required in Brazil; and (3) the maximum interest rate inherently includes a risk premium and, therefore, the addition of a risk premium is not justified.

DOC Position: We have found USIMINAS to be creditworthy through 1979, and uncreditworthy from 1980 through 1983 (see "Final Affirmative Countervailing Determinations; Certain Carbon Steel Products from Brazil" (49 FR 17988) and "DOC Position" on respondents' Comment 10 above). In accordance with the Subsidies Appendix, we have calculated a discount rate for allocating benefits received during the uncreditworthy period by adding a risk premium to the highest commercial interest rate a creditworthy borrower would have to pay in order to receive a loan. The rate for discounting accounts receivable, including compensating balances, is the best information available on the highest commercial interest rate applicable to creditworthy borrowers. The addition of a risk premium to this rate reflects the additional risk in lending to an uncreditworthy firm. For grants received during the period when USIMINAS was creditworthy we used a discount rate reflecting the firm's creditworthiness.

Comment 19: The government of Brazil contends that the CDI program is generally available to all industries of Brazil.

DOC Position: We disagree. Under the terms of Decree-Law 1428, which instituted the CDI program, exemptions from the IPI tax and import duties under the CDI program were limited to certain government-approved projects in fourteen selected industries. Based on the record of this and earlier countervailing duty determinations on Brazilian products, we have no evidence that this requirement does not allow the government of Brazil to target benefits to particular companies.

Comment 20: Respondents argue the Department erred in setting the threshold for "significant effect" of upstream subsidies on the cost of production of a downstream product at one percent. Respondents also cite a number of previous antidumping and countervailing duty, and other precedents where the numerical value of the term "significant" was considered higher than one percent.

DOC Position: Our determination with respect to the signifiant effect test is addressed in the "Upstream Subsidies" section of the notice.

Comment 21: Respondents argue that the Department erred in calculating a separate "significant effect" for each supplier of subsidized steel inputs, because ACESITA's flat-rolled capacity far exceeds the total demand of the tillage tool producers. Accordingly, the higher domestic subsidy rate for USIMINAS is irrelevant in determining either significant effect or competitive benefit.

DOC Position: The fact that ACESITA's capacity exceeds the total demand for tillage tool inputs is irrelevant because tillage tool producers purchase steel inputs from both ACESITA and USIMINAS. Therefore, any domestic subsidies accruing to USIMINAS can potentially have a significant effect on the purchasers' costs of production.

Comment 22: The government of Brazil argues that the Department erred in assuming a full pass-through of upstream subsidies to tillage tool producers, because these subsidies benefit the entire operations of the company rather than specific inputs.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 23: The government of Brazil contends that, in making its competitive benefit analysis, the Department erroneously disregarded the competitive, arms-length prices charged by the two steel suppliers, ACESITA and USIMINAS.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 24: Respondents contend that since the prices paid to ACESITA and USIMINAS by the tillage tool producers are still lower than the benchmark steel import price, competitive benefit should be measured by constructing average adjusted, unsubsidized prices for both ACESITA and USIMINAS. When this is done, USIMINAS' average adjusted price is lower than ACESITA's. Consequently, respondents argue, steel purchasers received no competitive benefit from subsidies to ACESITA since they could have purchased all their inputs from USIMINAS at a lower price.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 25: The government of Brazil contends that the use of Japanese surrogate prices is inappropriate since Brazilian tillage tool producers do not purchase sheet from Japan. Furthermore, the Japanese price used was a price to the East Coast of the United States which bears no relationship to prices to Brazil.

DOC Position: Because we have determined that no significant effect exists, the issue of which benchmark price to use is moot. However, the government of Brazil is incorrect in its statement that we used, in our preliminary determination, a price to the East Coast of the United States. We used an average Japanese export price to all markets except the United States.

Comment 26: The government of Brazil contends the Department erred in weight-averaging its surrogate domestic and import prices. This averaging is erroneous and bears no relationship to competitive benefit. The Department should have used the lowest unsubsidized price as its benchmark price.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 27: Respondents contend that the Department erred in weight-averaging surrogate Brazilian domestic steel prices, one including import duties and the other excluding import duties. Because we are seeking to determine whether tillage tools exported to the U.S. are subsidized, the higher effective price of steel imports used to make tillage tools sold in Brazil is irrelevant and import duties should be excluded from the benchmark formula.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 28: Respondent argue that the Department incorrectly relied on the formula set out in section 771A(b) of the Act in calculating the amount of "competitive benefit," since the value of the upstream subsidy to the downstream user is not necessarily equal to the difference between the price of the subsidized input and that which would be paid to another seller in an arms-length transaction.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 29: Respondents argue that the Department erred in summarily rejecting the concept that upstream subsidies must be afforded to specific industries in order to be countervailable. They contend that the inputs at issue (flat-rolled steel products), are used by virtually all manufacturing sectors in Brazil, making the provision of "benefits" to such a large economic sector generally available.

DOC Position: Because we have determined that no significant effect exists, this issue is moot.

Comment 30: The government of Brazil maintains that the Department applied incorrect standards in determining that Brazilian export subsidies are inconsistent with the Subsidies Code. In particular, the Department ignored Brazil's commitment under the GATT to phase out its export subsidies. Unless the Department determines that Brazil is in violation of its commitment, it cannot find Brazil's export subsidies to be inconsistent with the Subsidies Code.

DOC Position: Our determination with respect to whether Brazilian export subsidies are inconsistent with the Subsidies Code is addressed in the "Critical Circumstances" section of this notice.

Comment 31: The government of Brazil contends that the Department erred in finding a massive increase in imports of tillage tools in a relatively short period. Increases in shipments in 1984 and 1985 were lower than increases in 1981 and 1982. Moreover, the Department's comparison of import levels for the seven months preceding the filing of the petition with import levels during the seven months following filing is arbitrary, a sixteen percent increase is not massive, and, the increase reflects the cyclical nature of demand for this product.

DOC Position: Respondents have provided no reason as to why a comparison of the percentage increase in imports in 1984 and 1985 to the percentage increases in 1981 and 1982 is an appropriate measure of whether there has been a massive increase in imports over a relatively short period of time. Indeed, as respondents have pointed out we would expect the rate of increase to be much higher in the earlier period because imports were effectively zero in 1980. Nor have they provided any evidence regarding cyclical demand for the product or why a sixteen percent increase should not be considered massive. We focus on the months following the filing of the petition to be the "relatively short period" referred to by the statute because we regard the purpose of the critical circumstances provision as acting as a deterrent to exporters who would try to circumvent the intent of the law by increasing shipments during this period.

Comment 32: Respondents argue that the Department has mistakenly equated the term "serious prejudice" with the "material injury" standard of the ITC. Not only does this undermine the statutory authority of the ITC, but a casual link must be demonstrated between the export subsidy and the "serious prejudice" to a signatory.

DOC Position: Our determination with respect to the issue of "serious prejudice" is addressed in the "Critical Circumstances" section of this notice.

Critical circumstances

Where, as in this case, petitioners have alleged the existence of critical circumstances, section 705(a)(2) of the Act requires us to include in our final determination "a finding as to whether—(A) the subsidy is inconsistent with the Agreement, and (B) there have been massive imports of the class or kind of merchandise involved over a relatively short period.'

A. Consistency With the Subsidies Code

We have determined that the government of Brazil provides export subsidies on the merchandise under investigation. As we noted in our preliminary determination (50 FR 24270), Article 9 of the Subsidies Code prohibits the use of export subsidies on non-primary products. When given by developed countries, such subsidies are inconsistent with the Subsidies Code and are actionable under its dispute settlement provisions. However, Article 14 section 3 provides an exception for developing countries, provided they do not use "export subsidies on their industrial products . . . in a manner which causes serious prejudice to the trade or production of another signatory." For a developing country like Brazil, then, the issue is whether we find export subsidies causing "serious prejudice" to trade or production of agricultural tillage tools in the United States. Under section 771(7)(C)(iii) of the Act, the ITC evaluates all relevant economic factors bearing on the state of the industry, including actual and potential decline in output, sales, market share, profits, productivity, return on investment, and capacity utilization. Thus, in making its preliminary and final injury determinations, the ITC considers trade and production in the United States. We conclude that, in principal, serious prejudice can exist where material injury to a U.S. industry occurs by reason of imports benefiting from export subsidies. Therefore, should the ITC make a final determination of material injury, we determine serious prejudice exists.

If the ITC's final determination should be negative, our critical circumstances finding will be moot; in any event, under section 705(a)(4)(A) of the Act, the ITC must make its own affirmative determination of critical circumstances to effect our affirmative finding. If the ITC's final determination is that a U.S. industry is threatened with material injury, we conclude serious prejudice does not exist therefore, critical circumstances do not exist.

We stress that this finding is limited to the facts of this case and the application of Article 14 section 3 of the Subsidies Code. This finding draws no conclusion, and none should be inferred, with respect to the commitment made by the government of Brazil under Article 14 section 5 of the Subsidies Code. Under Article 14 section 5, developing countries are urged to "enter into a commitment to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs." Article 14 section 6 precludes any signatory from taking countermeasures pursuant to the provisions of Parts II and VI of the Subsidies Code against any export subsidies of such developing country, to the extent that the subsidies in question are covered by a commitment made under Article 14 section 5.

Parts II and VI of the Subsidies Code concern notification of subsidies and international dispute settlement. Significantly, Article 14 section 6 does not affect actions taken under Part I of the Subsidies Code, concerning domestic countervailing duty proceedings.

B. Massive Imports

In determining whether there have been massive imports over a relatively short period, we considered the following factors: (1) Whether imports have surged recently, (2) whether recent imports are significantly above the average calculated over several years (1980–1984), and (3) whether the patterns of imports over that four-year period may be explained by seasonal swings. Based upon our analysis of the information, we determine that imports of the products covered by this investigation appear massive over a relatively short period.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. Commerce officials spent the period from June 20 to July 11, 1985, verifying the information submitted by respondents and the government of Brazil, and gathering additional information to be used in this determination. We followed normal verification procedures, including inspection of documents and ledgers, and tracing the information in the response to source documents, accounting ledgers, and to financial statements.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all unliquidated entries of certain agricultural tillage tools from Brazil entered, or withdrawn from warehouse, for consumption, on or after March 12, 1985. As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended and the Customs Services should require a cash deposit or bond of 8.06 percent *ad valorem* for each such entry of this merchandise. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will detemine whether these imports materially injure, or threaten material injury to, a U.S. industry 45 days after the date of publication of this notice.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that material injury and critical circumstances do exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on certain agricultural tillage tools from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation indicated in the "Suspension of Liquidation" section of this notice, equal to the net subsidy of 8.08 percent *ad valorem*. If the ITC determines that a threat of material injury exists, or that material injury exists but critical circumstances do not exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on certain agricultural tillage tools from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of our preliminary determination (June 10, 1985), equal to the net subsidy of 8.08 percent *ad valorem*.

William T. Archey,
Acting Assistant Secretary for Trade Administration.

August 19, 1985.

[FR Doc. 85-20[illegible] Filed 8-23-85; 8:[illegible] am]
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[Investigation No. 701-TA-223 (Final)]

Agricultural Tillage Tools From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-223 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before August 19, 1985, and the Commission will make its final injury determination by October 7, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: June 10, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of agricultural tillage tools. The investigation was requested in a petition filed on September 28, 1984, by Ingersoll Products Corp. of Chicago, IL, Empire Plow Co. of Cleveland, OH, and Nichols Tillage Tools of Sterling, CO. In response to that petition, the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of the subject merchandise (FR 49 37856, November 12, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commision's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on August 2

1985 pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on September 10, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 28, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on August 30, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 5, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirement of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 8, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16454 Filed 7-10-85; 8:45 am]

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APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

TENTATIVE CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Agricultural Tillage Tools from Brazil

Inv. No. : Inv. 701-TA-223 (Final)

Date and time: September 10, 1985 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

IN SUPPORT OF THE IMPORTATION OF COUNTERVAILING DUTIES:

Beveridge & Diamond, P.C.--Counsel
Washington, D.C.
on behalf of

Ingersoll Products Corp.
Empire Plow Company, Inc.
Nichols Tillage Tools, Inc.
Osmundson Manufacturing Co.

R. Joseph Nichols, Executive Vice President and Treasurer, Nichols Tillage Tools, Inc.

Dwight Snow, Vice President of Marketing and Business Development, Ingersoll Products Corp.

James W. Baird, Vice President for Marketing, Empire Plow Company

Paul O. Buchanan, President, Osmundson Manufacturing Company

Alexander W. Sierck)
Elisabeth A. Robinson)--OF COUNSEL

- more -

IN OPPOSITION TO THE IMPOSITION OF COUNTERVAILING DUTIES:

O'Melveny & Myers--Counsel
Washington, D.C.
on behalf of

Marchesan Implementos E. Maquinas Agricolas "Tatu" S.A.
Baldan Implementos Agricolas S.A.
Companhia Semeato De Acos
Metisa Metalurgica Timboense S.A.

Dave Salocker, President, Wiese Corporation, Perry, Iowa

Dan Mills, President, Southern Supply Corporation, Dallas, Texas

Robert Moore, Farmo Incorporated, Sewickley, Pa.

Gary N. Horlick)
John D. Holum)--OF COUNSEL